

EXHIBIT C.
EXCEPTIONS TO TERMS, CONDITIONS AND SPECIFICATIONS FORM

Company Name: Apptegy, Inc.

Page Number	Paragraph #	Term, Condition or Specification	Exception
11-14	V. D., #'s 1-40 generally	e.g., Contracts (and the UCC), Assignments, Indemnity, Insurance, Changes in Ownership, and Financial Changes	Please see our responses in the Proposal to Section "V, Specifications, D. Requested Requirements" which contain exceptions and additional context. "Deviate" has been noted in response to certain items, or "N/A" when more appropriate based on the topic discussed. Particular attention can be paid to items 17, 19, 23, 25, 33, and 37. Please note, many of the topics/terms addressed or contained in the Section "D. Requested Requirements" are also reproduced elsewhere in the RFP. Any comments/exceptions noted in our Proposal to the Section "D. Requested Requirements" should be considered applicable to any other correlating terms in the RFP.
26	VIII. Terms and Conditions, 8.	Conditions of Agreement	Please see letter regarding exceptions included with Proposal.
27	VIII. Terms and Conditions, 12(f).	RESERVATION OF RIGHTS	Please see exceptions letter.
27-28	VIII. Terms and Conditions, 13.	Supplemental agreements	Please see exceptions letter.
		791 PURCHASING COOPERATIVE AND VENDOR AGREEMENT (the "Vendor Agreement")	Please see exceptions letter (with redline of Vendor Agreement attached).

As noted, please see the exceptions letter included in the Proposal for additional exceptions and context.

Name of Organization/Contractor(s): Apptegy, Inc.

Signature of Authorized Representative: 

Name of Authorized Representative: Casey Mikula

Title of Authorized Representative: Chief Sales Officer



Date: 4/21/2023





Apptegy, Inc.
2201 Brookwood Dr., STE 115
Little Rock, Arkansas 72202

April 21, 2023

791 Purchasing Cooperative (“The Cooperative”)

Attn: Ms. Charity Vasquez

612 South Irene Street

San Angelo, TX 76903

Re: RFP #2023-03-002 Technology Products, Equipment, and Services (the “RFP”)

Dear Ms. Vasquez,

Thank you for the opportunity to respond to the Cooperative’s RFP. We know that Apptegy will be a great fit. The RFP does not address all, or is sometimes contrary to, the terms and expectations that are customary in agreements for the type of products and services that we provide (software-as-a-service and cloud platforms). This is common because RFP forms and cooperative agreements are often used for different types of products and services. However, customary software-as-a-service and cloud platform terms are necessary because we provide our software to thousands of schools and municipalities across the world, and that requires consistency across our agreements about software ownership, warranties, indemnities, liability limits, assignment in the event of changes in ownership, and other points.

As such, Apptegy’s signatures in our RFP response are provided with the expectation that Apptegy and the Cooperative will (including pursuant to Section VII No. 30 and Exhibit C of the RFP) negotiate final versions of the Vendor Agreement between Apptegy and the Cooperative, and a Supplemental Agreement between Apptegy and any potential participating Cooperative members, with mutually-agreeable terms – some of which may differ from the RFP. Attached to this letter are Attachments “A”, “B”, and “C.” Attachment A contains exceptions to certain provisions contained within the RFP, Attachment B contains a redline of the Vendor Agreement for use between Apptegy and the Cooperative, and Attachment C contains a copy of Apptegy’s Master Services Agreement (the “Master Agreement”). Please also note general exceptions in the body of our Proposal to various items in Section “V, Specifications, D. Requested Requirements” and any correlating terms contained elsewhere within the RFP (this is also noted in the copy of Exhibit C, included in our Proposal).

Specifically regarding Supplemental Agreements between Apptegy and any participating members, we respectfully ask that the Master Agreement (which can also be found at: <https://www.apptegy.com/masterservicesagreement/>) be the final and sole agreement between Apptegy and any member (and govern over any conflicting terms in the RFP or Vendor Agreement). As standard practice, we require customers’ right to use Apptegy’s products and services be subject to execution and acceptance of the Master Agreement and any other applicable terms to reflect the products being purchased. The Master Agreement is tailored to cover the customary terms for software-as-a-service and cloud platform products generally, as well as Apptegy’s products, services, and practices specifically. We also believe the Master Agreement is customer-friendly and reasonable by industry standards, and protects the Cooperative’s members and any of their stakeholders (e.g., students, parents, or staff).



Apptegy, Inc.
2201 Brookwood Dr., STE 115
Little Rock, Arkansas 72202

To date we have partnered with more than 3,500 schools or other public entities in all 50 states, and we have never failed to reach an acceptable final agreement with a customer that chooses our products and services. Additionally, we are fully confident that we can work together to successfully address any point that is important to the Cooperative in the Vendor Agreement or other RFP provisions.

Please note that if the requests in this letter will result in Apptegy not being selected, we request an opportunity to have further discussion with the Cooperative about an appropriate path forward before the Cooperative makes a final decision. Overall, we want our agreement(s) with the Cooperative and any participating members to accurately reflect Apptegy's software and related services, and most of all, reflect our relationship and our shared goal of a successful future together.

Thank you again for considering our response to the RFP and this letter. We are very excited to work with the Cooperative team!

Sincerely,

A handwritten signature in black ink, appearing to read "Casey Mikula".

Casey Mikula
Chief Sales Officer, Apptegy, Inc.
casey.mikula@apptegy.com

Attachment A

Additional Exceptions to RFP #791_2023_03_002 (Pages 1-36)

Page 26. VIII. Terms and Conditions, 8. Conditions of Agreement

Deviate. Remove this section in its entirety and replace with the following language:

The final, negotiated terms and conditions of this solicitation and the Vendor Agreement shall control only between 791 COOPERATIVE and Vendor. The controlling terms of any supplemental agreements between 791 COOPERATIVE members and Vendor will be any 791 COOPERATIVE member's Order Form (as negotiated with Vendor and modified as applicable) and the Vendor's Master Services Agreement (including Vendor's Terms of Use and Privacy Policy incorporated therein) (collectively, a "Supplemental Agreement").

Page 27. VIII. Terms and Conditions, 12. RESERVATION OF RIGHTS, (f)

Deviate. Add to the end of the paragraph in subsection (f): "Notwithstanding the foregoing or any term herein to the contrary, any Supplemental Agreements entered into between a 791 PURCHASING COOPERATIVE Member and Vendor prior to termination or expiration of the Vendor Agreement between 791 PURCHASING COOPERATIVE and Vendor shall remain in effect and be governed in accordance with the terms of the Supplemental Agreement."

Page 27-28. VIII. Terms and Conditions, 13. Supplemental agreements

Deviate. Remove this section in its entirety and replace with the following language:

"The 791 PURCHASING COOPERATIVE Participant/Member entity participating in the 791 PURCHASING COOPERATIVE Agreement with Vendor will enter into a separate Supplemental Agreement negotiated with Vendor. The Supplemental Agreement will be the sole and exclusive agreement between Vendor and the 791 PURCHASING COOPERATIVE Member (governing terms including, without limitation, those regarding fees, invoicing, contract term, and renewal, etc.). This Supplemental Member Agreement will exclusively exist between the Member and Vendor and, for clarity, will govern over any conflicting terms in this solicitation or any Vendor Agreement between the 791 PURCHASING COOPERATIVE and Vendor. The 791 PURCHASING COOPERATIVE and its agents and employees, and **other** 791 PURCHASING COOPERATIVE Members and their agents and employees, shall not be made a party to any claim for breach of such Supplemental Agreement. The terms and conditions in the Supplemental Agreement will exclusively control between the Member and Vendor. For clarity, the terms and conditions in the 791 PURCHASING COOPERATIVE Agreement between 791 PURCHASING COOPERATIVE and Vendor will **not** be the controlling document between Member and Vendor, and instead, any contractual relationship between Member and Vendor will be exclusively governed by the separate, Supplemental Agreement, to be executed by Member and Vendor."

791 PURCHASING COOPERATIVE AND VENDOR AGREEMENT

Between _____
(Company Name)

with the principal place of business at

_____ and

**791 Purchasing Cooperative
For
RFP #791_2023_03_002 Technology Products, Equipment, and Services**

General Information

The Vendor Agreement (“Agreement” [or “Vendor Agreement”](#)) made and entered into by and between 791 PURCHASING COOPERATIVE (hereinafter referred to as “791COOP”) a government cooperative purchasing program authorized by the Region 15 ESC, having its principal place of business 612 Irene Street San Angelo TX 76903 and **Company listed at the top of page one** (hereinafter referred to as “Vendor”) a provider having its principal place of business as listed at the top of page one. This Agreement consists of the provisions set forth below, including provisions of all Attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any Attachment, the provisions set forth shall control.

The vendor Agreement shall include and incorporate by reference this Agreement, the terms and conditions, special terms and conditions, any agreed upon amendments, as well as all of the sections of the Solicitation (RFP, RCSP, RFQ) as posted, including any addenda and the awarded vendor’s proposal.

The following pages will constitute the Agreement between the successful vendors(s) and 791 PURCHASING COOPERATIVE.

Terms and Conditions

1. Assignment of Vendor Agreement

Except in connection with a merger, acquisition, or sale of all or substantially all of a party's assets or voting securities, No assignment of the Vendor Agreement may be made without the prior written approval of 791 PURCHASING COOPERATIVE. A simple change of name agreement will not change the Agreement obligations of the awarded vendor.

2. 791 PURCHASING COOPERATIVE Contract

The 791 PURCHASING COOPERATIVE Contract is the final negotiated version of the Vendor's contract that was submitted as part of the **RFP #791_2023_03_002 Technology Products , Equipment, and Services**. ~~The provider (s) and negotiated with 791 PURCHASING COOPERATIVE. The 791 PURCHASING COOPERATIVE Contract will govern all aspects of a sale for Products and/or Services between the Vendor and a 791 PURCHASING COOPERATIVE Participant.~~ 791 PURCHASING COOPERATIVE recognizes that a 791 PURCHASING COOPERATIVE Participant wishing to purchase Vendor's services under 791 PURCHASING COOPERATIVE Contract will negotiate and execute a separate supplemental agreement with Vendor. The controlling terms of any supplemental agreements between 791 COOPERATIVE members and Vendor will be any 791 COOPERATIVE member's Order Form with Vendor (as negotiated with Vendor and modified as applicable) and the Vendor's Master Services Agreement (including Vendor's Terms of Use and Privacy Policy and any other terms incorporated therein) (collectively, a "Supplemental Agreement"). The Supplemental Agreement will be the sole and exclusive agreement between Vendor and the 791 PURCHASING COOPERATIVE Member (governing terms including, without limitation, 791 PURCHASING COOPERATIVE Member's rights and obligations regarding access and use of Vendor's services, fees for the services, invoicing, contract term, renewal, etc.). For clarity, Vendor acknowledges and agrees that fees will be based on properly submitted pricing as provided for in the 791 PURCHASING COOPERATIVE Contract. ~~may, in agreement with Vendor, make modifications to the 791 PURCHASING COOPERATIVE Contract to~~ The Supplemental Agreement will also reflect the other specific needs of the 791 PURCHASING COOPERATIVE Participant. This ~~modified~~ form will still be referred to herein for convenience as the 791 PURCHASING COOPERATIVE Contract.

~~Vendor may only use the 791 PURCHASING COOPERATIVE Contract with 791 PURCHASING COOPERATIVE Participants who have agreed to purchase Roofing maintenance services from Vendor through the 791 PURCHASING COOPERATIVE preferred supplier program.~~ If a 791 PURCHASING COOPERATIVE Participant solicits proposals for Products and/or Services under this agreement from Vendor directly and has specifically provided notice that they will not be using 791 PURCHASING COOPERATIVE as their contract vehicle through the 791 PURCHASING COOPERATIVE preferred supplier program, Vendor cannot use the 791 PURCHASING COOPERATIVE Contract to serve the 791 PURCHASING COOPERATIVE Participant. For the avoidance of doubt, if a vendor and a 791 PURCHASING COOPERATIVE Participant, execute a 791 PURCHASING COOPERATIVE Purchase or Products and/or Services under this agreement, the vendor will be obligated to pay 791 PURCHASING COOPERATIVE the participation fee.

To further clarify, the vendor may sell to a 791 PURCHASING COOPERATIVE participant or potential 791 PURCHASING COOPERATIVE participants, which is any governmental or other public entity in Texas through the 791 PURCHASING COOPERATIVE preferred supplier program. If a potential customer is not currently a 791 PURCHASING COOPERATIVE participant, they may join 791 PURCHASING COOPERATIVE by contacting 791 PURCHASING COOPERATIVE at admin@791COOP.org.

For clarity and notwithstanding any other term in the Solicitation or this Vendor Agreement to the contrary~~Awarded vendors are~~, Vendor is not restricted from responding to any Texas entity that issued a Request for Proposals and has chosen not to use the 791 PURCHASING COOPERATIVE interlocal cooperative method of procurement or who has otherwise requested a quote from Vendor and chosen not to use the 791 PURCHASING COOPERATIVE interlocal cooperative method of procurement.

~~If you identify a Texas public or governmental entity that wants to make a purchase and use a cooperative or interlocal contract and is not a current 791 PURCHASING COOPERATIVE Participant, please have them call the number provided above or email the address above so 791 PURCHASING COOPERATIVE may contact the entity to provide all applicable information.~~

~~791 PURCHASING COOPERATIVE will provide awarded vendor's participants packets for this purpose upon request.~~

ANY AGREEMENT BETWEEN A 791 PURCHASING COOPERATIVE PARTICIPANT AND VENDOR THAT REQUIRES THE 791 PURCHASING COOPERATIVE PARTICIPANT TO INDEMNIFY ANY OTHER PARTY, EXCEPT TO THE EXTENT PERMITTED BY THE APPLICABLE CONSTITUTION, LAWS, OR REGULATIONS OF THE JURISDICTION OF THE LOCATION OF THE 791 PURCHASING COOPERATIVE PARTICIPANT OR THE LOCATION OF THE PERFORMANCE OF THE CONTRACT UNDER THIS AGREEMENT, IS NOT PERMITTED UNDER THIS AGREEMENT AND RENDERS THE INDEMNITY REQUIREMENT NULL AND VOID AS IT APPLIES TO THE 791 PURCHASING COOPERATIVE PARTICIPANT'S RESPONSIBILITY TO INDEMNIFY ANY PARTY.

3. Disclosures

- a) Vendor affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Agreement.
- b) Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with 791 PURCHASING COOPERATIVE under a 791 PURCHASING COOPERATIVE Agreement if Vendor feels that such possible conflicts of interest exist. If you believe there is a conflict of interest as described in the form CIQ instruction sheet contained in this RFP, please complete and submit the form CIQ provided as instructed.
- c) The vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

4. Renewal of Agreements

The Agreement with 791 PURCHASING COOPERATIVE is for a three (3) year term with two (2), two (2) year extension option. Any extension of the initial term will be agreed to in writing between 791 PURCHASING COOPERATIVE and Vendor. Nothing herein shall require either party to agree to an extension of the initial term. For clarity, any Supplemental Agreements entered into between 791 PURCHASING COOPERATIVE Member and Vendor prior to the expiration or termination of this Vendor Agreement shall continue in effect as provided for therein and otherwise governed in accordance with the terms of such Supplemental Agreement.

Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with 791 PURCHASING COOPERATIVE Participants Resulting from the Solicitation and with the Vendor Named in this Agreement.

TO THE EXTENT REQUIRED BY APPLICABLE LAW, NO SUPPLEMENTAL AGREEMENT FOR GOODS OR SERVICES WITH A 791 PURCHASING COOPERATIVE PARTICIPANT BY THE AWARDED VENDOR NAMED IN THIS AGREEMENT THAT RESULTS FROM THE SOLICITATION AWARD NAMED IN THIS AGREEMENT MAY INCORPORATE AN AUTOMATIC RENEWAL CLAUSE WITH WHICH THE 791 PURCHASING COOPERATIVE PARTICIPANT MUST COMPLY. ALL AUTOMATIC RENEWAL OR OTHER RENEWAL TERMS INCORPORATED IN AN AGREEMENT BY THE VENDOR WITH THE 791 PURCHASING COOPERATIVE PARTICIPANT SHALL ONLY BE VALID AND ENFORCEABLE WHEN ~~THE VENDOR RECEIVES WRITTEN CONFIRMATION BY PURCHASE ORDER OR EXECUTED AGREEMENT ISSUED BY THE 791 PURCHASING COOPERATIVE PARTICIPANT FOR ANY RENEWAL PERIOD~~ CONTAINED IN A VALID, WRITTEN AND SIGNED AGREEMENT BETWEEN A 791 PURCHASING COOPERATIVE PARTICIPANT AND VENDOR, INCLUDING SUPPLEMENTAL AGREEMENTS, AND ANY RENEWAL PERIODS SHALL ONLY BE VALID UPON 791 PURCHASING COOPERATIVE PARTICIPANT'S CONFIRMATION, BY PURCHASE ORDER OR OTHERWISE, OF RENEWAL AT SUCH TIME. THE PURPOSE OF THIS CLAUSE IS TO AVOID A 791 PURCHASING COOPERATIVE PARTICIPANT INADVERTENTLY RENEWING AN AGREEMENT DURING A PERIOD IN WHICH THE GOVERNING BODY OF THE 791 PURCHASING COOPERATIVE PARTICIPANT HAS NOT PROPERLY APPROPRIATED AND BUDGETED THE FUNDS TO SATISFY THE AGREEMENT RENEWAL. THIS TERM IS NOT NEGOTIABLE AND ANY AGREEMENT BETWEEN A 791 PURCHASING COOPERATIVE PARTICIPANT AND A 791 PURCHASING COOPERATIVE AWARDED VENDOR WITH AN AUTOMATIC RENEWAL CLAUSE THAT CONFLICTS WITH THESE TERMS IS RENDERED VOID AND UNENFORCEABLE AS TO THE AUTOMATIC RENEWAL CLAUSE.

5. Invoices

Vendor is responsible for the invoicing and collection of all funds due from a 791 PURCHASING COOPERATIVE Participant to the Vendor.

6. Participant Payments

791 PURCHASING COOPERATIVE Participants will make payments directly to the Vendor for all funds owed as provided for in the 791 PURCHASING COOPERATIVE Contract.

7. Pricing

The price Vendor will charge a 791 PURCHASING COOPERATIVE Participant will be defined in the 791 PURCHASING COOPERATIVE Contract and determined at the time Vendor and a 791 PURCHASING COOPERATIVE Participant makes purchases through this 791 PURCHASING COOPERATIVE Contract. The price Vendor charges a 791 PURCHASING COOPERATIVE Participant will include the 791 PURCHASING COOPERATIVE annual participation fee.

At no time during the initial term or extended term of this Agreement shall the price charged to a 791 PURCHASING COOPERATIVE Participant exceed the contracted price contained in RFP #791_2023_03_001 Technology Products , Equipment, and Services or otherwise updated in accordance with the terms of RFP #791_2023_03_001 Technology Products , Equipment, and Services and/or this Vendor Agreement.

Language similar to the following will be added to ~~the Representations Section of the Vendor's 791 PURCHASING~~ Supplemental Agreements entered into pursuant to RFP #791_2023_03_002 Technology Products, Equipment, and Services:

~~“Seller represents that t~~This [Supplemental](#) Agreement, pursuant [and complies with to](#) the award to ~~(insert vendor’s name)~~[Apptegy](#) as a result of the 791 PURCHASING COOPERATIVE RFP #791_2023_03_002 Technology Products , Equipment, and Services, ~~complies with the terms and conditions contained in a separate Purchasing agreement between Seller and 791 PURCHASING COOPERATIVE Participants.”~~

8. Participation Fees

Vendor agrees to pay 791 PURCHASING COOPERATIVE agrees to pay the participation fee, **0.75%** Sales Admin Fee.

- a) The first fee is a **0.75%** percent annual participation fee for all Agreement sales to 791 PURCHASING COOPERATIVE Participants utilizing a 791 PURCHASING COOPERATIVE awarded the contract. The participation fee will be the total dollars derived from **0.75 %** of total sales volume through this program to 791 PURCHASING COOPERATIVE participants. The participation fee will be included in quotes and invoices between the awarded vendor and 791 PURCHASING COOPERATIVE Participants.
- b) ~~The 791 PURCHASING COOPERATIVE participation fee will not be a provided as a separate line item to the 791 PURCHASING COOPERATIVE Participant.~~ Vendor will remit the participation fee to 791 PURCHASING COOPERATIVE within thirty (30) business days of receipt of the payment for Purchases made under this agreement, which includes the annual participation fee, from the 791 PURCHASING COOPERATIVE Participant. Failure to pay the participation fee will result in termination of Agreement and 791 PURCHASING COOPERATIVE reserves the right to take any action under the law or equity for any breach of contract.
- ~~c) Prior to delivering a quote to a 791 PURCHASING COOPERATIVE Participant, the awarded vendor(s) will calculate the administrative fee for 791 PURCHASING COOPERATIVE to be included in the quote.~~

9. Administrative Participation Fee

791COOP establishes a fee for each solicitation for proposals that is in the best interest of 791COOP and its participants.

10. Sales Reporting Procedures for Vendor

[791 PURCHASING COOPERATIVE Participants shall report any purchases of Vendor’s services to 791 PURCHASING COOPERATIVE upon signing of a Supplemental Agreement.](#) Vendor will [use commercially reasonable efforts to ensure 791 PURCHASING COOPERATIVE Participants report any sale under this contract that is made to a 791 PURCHASING COOPERATIVE Participant with the Vendor on a monthly basis. Thus, any order entered in a particular month shall report within thirty \(30\) business days of the 791 PURCHASING COOPERATIVE Participant issuing a Purchase Order or otherwise](#) purchasing from the [V](#)vendor under this contract.

11. Adoption of Agreement by State or Federal Agencies

Awarded Vendors may present this agreement to State agencies for adoption by the State, [at Vendor’s sole discretion](#). Vendor may agree to pay an additional fee to the State Agency. The Awarded Vendor shall continue to pay the Participation fee to 791 Purchasing Cooperative and report these sales to 791 Purchasing Cooperative. Failure for the Awarded Vendor to comply with this section of the agreement will result the in Awarded Vendor being in breach of the agreement and having their agreement with 791 Purchasing Cooperative terminated for cause.

Furthermore, Awarded Vendor may present this agreement to Federal Government Agencies who may adopt this agreement. Participation fees shall continue to be paid and sales reported to 791 Purchasing Cooperative, even if a fee is paid to the approving Federal Agency. Failure for the Awarded Vendor to comply with this section of the agreement will result in the Awarded Vendor being in breach of this agreement and having their agreement with 791 Purchasing Cooperative terminated for cause.

12. Indemnity

Vendor agrees to indemnify and hold harmless and defend 791 PURCHASING COOPERATIVE, 791 PURCHASING COOPERATIVE officers and employees, from and against all claims and suits for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's [gross negligence or intentional misconduct in Vendor's](#) performance of this Agreement or ~~sales~~ [Supplemental Agreements made to with](#) 791 PURCHASING COOPERATIVE Participants under this agreement, ~~including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, invitees,~~ unless such claims are based in whole upon the negligent acts or omissions of the 791 PURCHASING COOPERATIVE, 791 PURCHASING COOPERATIVE officers, employees, or agents. If based in part upon the negligent acts or omissions of the 791 PURCHASING COOPERATIVE, 791 PURCHASING COOPERATIVE officers, employees, or agents, Vendor shall be responsible for ~~their~~ [its](#) proportional share of the claim [based on Vendor's gross negligence or intentional misconduct](#).

13. State of Texas Franchise Tax

By signature hereon, the bidder hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Chapter 171, Tax Code.

14. Miscellaneous:

Nothing in the Agreement or in any other communication between 791 PURCHASING COOPERATIVE and the Vendor may be construed as a guarantee that 791 PURCHASING COOPERATIVE Participants will purchase items and services under this contract from the Vendor at any time.

15. Termination:

Contract shall terminate at the end of the agreement or at the end of any contract extensions. Either party may terminate for breach of contract which would include bankruptcy, or due to continued failure to perform the terms in this agreement. Prior to exercising termination for breach, the non-breaching party must provide notice by certified mail to provide the other party 30 days to solve the stated problems. However, if this agreement is terminated prior to the end date of the initial term or the end date of an agreed to extension term, any ~~791 PURCHASING COOPERATIVE Purchase Contract Supplemental Agreement~~ entered into between Vendor and a 791 PURCHASING COOPERATIVE Participant shall survive and will not be terminated. [For clarity, any Supplemental Agreements entered into between a 791 PURCHASING COOPERATIVE Member/Participant and Vendor prior to the expiration or termination of this Vendor Agreement shall continue in effect as provided for therein and otherwise governed in accordance with the terms of such Supplemental Agreement.](#) ~~Upon termination of this agreement between 791 PURCHASING COOPERATIVE and the Vendor, this agreement shall survive only insofar as to govern all surviving 791 PURCHASING COOPERATIVE Contracts between the Vendor and 791 PURCHASING COOPERATIVE Participants.~~ Termination for convenience is required [as applicable and/or provided for](#) under 2 CFR part 200.

16. Marketing

Awarded vendor agrees to allow 791 PURCHASING COOPERATIVE to use their name and logo within the 791 PURCHASING COOPERATIVE website, marketing materials and advertisement. Vendor may use the 791 PURCHASING COOPERATIVE name and logo in marketing the 791 PURCHASING COOPERATIVE Contract to 791 PURCHASING COOPERATIVE Participants or other Texas government or public entities.

17. Legal obligations

It is the responding vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in this RFP and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

18. Audit rights

Awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by any 791 PURCHASING COOPERATIVE Participant that utilizes this Agreement. 791 PURCHASING COOPERATIVE reserves the right to audit the accounting for a period of four (4) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of four (4) years from the effective date of termination. 791 PURCHASING COOPERATIVE shall have the ability to conduct the audit internally or may engage a third-party auditing firm. In the event of an audit, the requested materials shall be provided in the format and at the location designated by 791 PURCHASING COOPERATIVE. 791 PURCHASING COOPERATIVE shall [at its sole expense](#) bear the cost of ~~anysuch~~ audit requested by 791 PURCHASING COOPERATIVE, but all documents maintained by the vendor shall be produced and made available to 791 PURCHASING COOPERATIVE or its agents at no cost.

19. Force Majeure

If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and cause of Force Majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. **This Clause includes COVID-19 which is a Declared Pandemic and any future Declared Pandemics.**

20. Remedies

The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the 791 PURCHASING COOPERATIVE to a binding arbitration resolution of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived under the terms of the Contract, may, be subject to mediation at the request of either party. Non-binding mediation shall be conducted by a mutually agreed upon mediator as a prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee equally. Mediation shall be held in Tom Green County, Texas. Agreements reached in mediation shall be reduced to writing, and signed shall thereafter be enforceable as provided by the laws of the State of Texas.

21. Choice of Law

This agreement and any addenda or other additions and all contracts or awards resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

22. Jurisdiction (Venue) and Service of Process

Any Proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction shall be brought to a [federal or state](#) court of competent jurisdiction in [and/or for](#) Bexar County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary, and freely bargained agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world.

23. Alternative Dispute Resolution

Prior to the filing of litigation, the parties may select non-binding mediation as a method of conflict resolution for issues arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction. The parties agree that if non-binding mediation is chosen as a resolution process, the parties must agree to the chosen mediator(s) and that all mediation venues shall be at a location in Tom Green County, Texas, or agreed by the parties. The parties agree to share equally the cost of the mediation process and venue cost.

~~24. Acts or Omissions~~

~~The successful vendor will be expected to indemnify and hold harmless 791 PURCHASING COOPERATIVE, its officers, employees, agents, representatives, contractors, assignees and designees from and against any and all liability, actions, claims, demands or suits, and all related costs, attorney's fees and expenses arising out of, or resulting from any acts or omissions of the vendor or its agents, employees, subcontractors, or suppliers in the execution or performance of any agreements ultimately made by 791 PURCHASING COOPERATIVE and the vendor.~~

~~25.~~24. **Contract Governance**

Any contract made or entered into by 791 PURCHASING COOPERATIVE is subject to and is to be governed by, [as required and applicable](#), Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, [Region 15 Education Service Center, as the Lead Agency for](#) 791 PURCHASING COOPERATIVE does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.

~~26.~~25. **Supplemental Agreements**

[The 791 PURCHASING COOPERATIVE Member/Participant entity participating in the 791 PURCHASING COOPERATIVE Agreement with Vendor will enter into a separate Supplemental Agreement negotiated with Vendor. The Supplemental Agreement will be the sole and exclusive agreement between Vendor and the 791 PURCHASING COOPERATIVE Member \(governing terms including, without limitation, those regarding fees, invoicing, contract term, and renewal, etc.\). This Supplemental Member Agreement will exclusively exist between the Member and Vendor and, for clarity, will govern over any conflicting terms in this solicitation or any Vendor Agreement between the 791 PURCHASING](#)

COOPERATIVE and Vendor. The 791 PURCHASING COOPERATIVE and its agents and employees, and other 791 PURCHASING COOPERATIVE Members and their agents and employees, shall not be made a party to any claim for breach of such Supplemental Agreement. The terms and conditions in the Supplemental Agreement will exclusively control between the Member and Vendor. For clarity, the terms and conditions in the 791 PURCHASING COOPERATIVE Vendor Agreement between 791 PURCHASING COOPERATIVE and Vendor will not be the controlling document between Member and Vendor, and instead, any contractual relationship between Member and Vendor will be exclusively governed by the separate, Supplemental Agreement, to be executed by Member and Vendor.~~The 791 PURCHASING COOPERATIVE Participant entity participating in the 791 PURCHASING COOPERATIVE Agreement and awarded vendor may enter into a separate supplemental agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement or contract developed as a result of this Agreement is exclusively between the participating entity and awarded vendor. 791 PURCHASING COOPERATIVE, its agents, 791 PURCHASING COOPERATIVE Participants, and employees shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a vendor submitting a Proposal requires 791 PURCHASING COOPERATIVE and/or 791 PURCHASING COOPERATIVE Participant to sign an additional agreement, those agreements shall comply with the award made by 791 PURCHASING COOPERATIVE to the Vendor. Supplemental Vendor's Agreement documents may not become part of 791 PURCHASING COOPERATIVE's Agreement with the vendor unless and until an authorized representative of 791 PURCHASING COOPERATIVE reviews and approves it. 791 PURCHASING COOPERATIVE permits 791 PURCHASING COOPERATIVE Participants to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's 791 PURCHASING COOPERATIVE Agreement.~~

27.26. Survival Clause

~~All applicable agreements, contracts, software license agreements, warranties or service~~ a Supplemental Agreements that were entered into between Vendor and ~~791 PURCHASING COOPERATIVE or the~~ any 791 PURCHASING COOPERATIVE Participant ~~Customers/Members under the terms and conditions of~~ pursuant to this Vendor Agreement shall survive the expiration or termination of this Vendor Agreement. All ~~Orders, Purchase Orders issued or contracts executed by 791 PURCHASING COOPERATIVE or a 791 PURCHASING COOPERATIVE Participant and~~ such Supplemental Agreements accepted by the Vendor prior to the expiration or termination of this Vendor Agreement, shall survive expiration or termination of the Vendor Agreement, subject to any previously agreed terms and conditions agreed to by the 791 PURCHASING COOPERATIVE Participant Customer/Member and Vendor in the Supplemental Agreement ~~the parties~~ or as otherwise specified ~~herein relating to termination of this agreement.~~ in such Supplemental Agreement.

28.27. Smoking

Persons working under Agreement shall adhere to the 791 PURCHASING COOPERATIVE Participant's or local smoking statutes, codes or policies.

29.28. Novation

If awarded vendor sells or transfers all assets or the entire portion of the assets used to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor.

30.29. Licenses

Awarded vendor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded vendor. Awarded vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the Agreement. 791 PURCHASING COOPERATIVE and its Participants reserves the right to stop work and/or cancel Agreement of any awarded vendor whose license(s) expire, lapse, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.

31.30. 791 PURCHASING COOPERATIVE Participant Purchasing Procedures

Purchase orders or their equal are issued by participating 791 PURCHASING COOPERATIVE Participant to the awarded vendor and should indicate on the order that the purchase is per the applicable 791 PURCHASING COOPERATIVE Agreement number. Orders are typically emailed to 791 PURCHASING COOPERATIVE at admin@791COOP.org

- a) Awarded vendor delivers goods/services directly to the participating participant.
- b) Awarded vendor invoices the participating 791 PURCHASING COOPERATIVE Participant directly.
- c) Awarded vendor receives payment directly from the participating participant.
- d) [791 PURCHASING COOPERATIVE Participants shall report any purchases of Vendor's services to 791 PURCHASING COOPERATIVE upon signing of a Supplemental Agreement. Vendor will use commercially reasonable efforts to ensure 791 PURCHASING COOPERATIVE Participants report within thirty \(30\) business days of the 791 PURCHASING COOPERATIVE Participant purchasing from the Vendor under this contract.](#) ~~Awarded vendor reports sales monthly to 791 PURCHASING COOPERATIVE (unless prior arrangements have been made with 791 PURCHASING COOPERATIVE for an alternative submission schedule).~~

32.31. Incorporation of Solicitation

The 791 Purchasing Cooperative Solicitation, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same, [any final, negotiated, and accepted Vendor exceptions, to the Solicitation](#), and all associated documents and forms made part of the solicitation process, including any addenda, that resulted in the execution of this agreement are hereby incorporated by reference into this agreement as if copied verbatim.

33.32. Registered Felony Convictions and sex offender restrictions

For work to be performed at schools, awarded vendor agrees that no employee of a sub-contractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the 791 Purchasing Cooperative Participant. Awarded vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the 791 Purchasing Cooperative Participant's discretion. Awarded vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

34.33. Safety measures

Awarded vendor shall take all reasonable precautions for the safety of employees. ~~on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work~~

~~in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.~~

35.34. Insurance Requirements

- a) **Contractor's Commercial General Liability Insurance**—~~Contractor~~ Vendor shall purchase and maintain such commercial general liability insurance as ~~will protect him~~ appropriate to cover Vendor's performance under this Vendor Agreement or any Supplemental Agreements and protect from claims for damages because of bodily injury, sickness, or disease, or death of any person including claims insured by standard personal injury liability, and from claims for injury to or destruction of tangible property, including loss of use resulting there from, any or all of which may arise out of or result from ~~Contractor's~~ Vendor's operations under the Contract Documents, whether such operations be by himself or anyone directly or indirectly employed by him or for whose acts they may be legally liable. This insurance shall include the types and specific coverages herein described and be written for not less than any limits of liability specified in these Documents or required by law, whichever is greater. Coverage must be broad form and include Products & Completed Operations, Bodily Injury, Property Damage and Contractual Liability, subject to customary policy terms, conditions, and exclusions. ~~Insurance must include coverage for independent contractors, products/completed operations, contractual liability, broad form property damage, and personal injury.~~
- b) **Contractor's Automobile Liability Insurance**—Contractor shall purchase and maintain such insurance as will protect him from claims for damages because of bodily injury, sickness, disease or death of any person, including claims insured by standard personal injury coverage; and from claims for injury to or destruction of tangible property, including loss of use resulting there from, any or all of which may arise out of or result from the use of all ~~owned,~~ non-owned, or hired, automobile, vehicles, and other equipment both on and off work, arising from or in any way related to or as the result of Contractor's operations under the Agreement, whether such operations be by the Contractor or anyone directly or indirectly employed by him or for whose acts any of them may be legally liable.
- c) **Contractor's Workers' Compensation and Employer's Liability Coverage**—The Contractor shall comply with the provisions of the Workers' Compensation Act, the subsequent Injury Act, and Contractor shall procure and maintain during the life of this Contract Workers' Compensation and Employer's Liability Insurance in accordance with ~~Texas~~ statutorily required limits other laws and regulations or Vendor's applicable jurisdiction(s). ~~Such insurance shall include coverage permitted for safety devices. If the Contractor elects to be self insured, he shall comply with the applicable requirements and laws of Texas.~~ Region 15 ESC, its officers, or employees will not be responsible for any claims or actions occasioned by the failure of the Contractor to comply with the provisions of this paragraph.
- ~~If any class of employee is not protected under the Workers' Compensation Statute, the Contractor shall provide adequate employer's liability coverage as will protect him and the University against any claims resulting from injuries to and death of workers engaged in work under this contract.~~
- d) **Coverage limits**—Insurance coverage limits required to be carried by the Contractor under this Section shall be as follows:

1. Commercial General Liability Insurance and Commercial Automobile Liability Insurance limits of coverage shall be the limits established by Texas Claims Act, [as applicable](#), or a Combined Single Limit coverage of \$1,000,000.
2. Contractor's Workers' Compensation - coverage shall be those established by applicable statutes. Employer's liability coverages shall be the limits established by the State of Texas, [as applicable](#), or \$1,000,000.

~~3. Umbrella Liability Insurance: Liability on a following form basis with a limit \$1,000,000 per occurrence in excess of all primary limits.~~

- e) ~~All proposals shall include~~ [Upon request, Vendor shall provide](#) a valid Certificate of Liability Insurance showing REGION 15 ESC, 791 Purchasing Cooperative ~~and individual 791 Purchasing Cooperative participants (if requested)~~ as a certificate holder.
- f) ~~To protect the 791 Purchasing Cooperative, 791 Purchasing Cooperative Participants and their employees against liability, loss, or expense in the event of damage to property, injury, or death to any person or persons arising in any way out of or in connection with or resulting from the work provided hereunder,~~ Vendor shall procure and maintain, at its sole expense ~~and until acceptance of the work,~~ insurance as hereinafter enumerated ~~in policies which shall be subject to the 791 Purchasing Cooperative's approval as to form, amount and issuing company.~~ Amounts listed are a minimum.

[SIGNATURE PAGE IMMEDIATELY FOLLOWING]

791 PURCHASING COOPERATIVE and VENDOR AGREEMENT

Signature Form

RFP #2023-03-002 Technology Products, Equipment and Services

Vendor:

Company Name _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

Name of Authorized Representative _____

Title _____ Date _____

Email of Authorized Representative: _____

Signature of Authorized Representative _____ (Required)

791 PURCHASING COOPERATIVE:

Authorized Representative Signature: _____

Name _____

Title _____

Email _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

Date _____

Attachment C

APPTEGY, INC. MASTER SERVICES AGREEMENT

The following terms and conditions are a binding part of the Order Form and Master Services Agreement of Apptegy, Inc. (together with its affiliates, agents, and assigns, "**Apptegy**") between Apptegy and the Client that is set out in the Order Form. References to the "**Agreement**" below collectively include the Order Form (including and incorporating the terms and conditions set out in the "**Estimated Transition Timeline**" and the "**Payment Schedule**" that is provided with this Agreement) and the following terms and conditions. This Agreement provides the terms and conditions for Client to purchase and use Apptegy's Services (as defined below). Capitalized terms used but not otherwise defined in the following terms and conditions will have the meanings given to them in the Order Form.

1. Integration with Other Documents. This Agreement is the entire agreement between Apptegy and Client with respect to the Services, except as expressly set out below. No separate written or online agreements or terms and conditions will be incorporated in this Agreement or otherwise bind the parties unless expressly set out in this Agreement or in a Client Addendum (as defined below). The Client Addendum will control and govern with respect to all matters expressly addressed in the Client Addendum, and this Agreement will control and govern with respect to all other matters. If you do not have a separate Client Addendum, this Agreement will control and govern in all circumstances. To be enforceable on the parties, any amendment, modification, or addition to the terms and conditions of this Agreement must be set out in a separate addendum confirming such amendments, modifications, and/or additions in writing (a "**Client Addendum**").

2. Services; License. During the License Term, Apptegy will provide, and Client and the individuals allowed to access the Services by or on behalf of Client ("**User(s)**") may access and use, the products and services set out in the Order Form (collectively, "**Services**"). Client hereby grants Apptegy a limited, nonexclusive, revocable, worldwide, fully-paid, royalty-free license to use, copy, and modify Client's information, material, data, photographs, videos, intellectual property (including without limitation all copyrights, trademarks, service marks, and similar rights), and other content (collectively, "**Client Content**") for providing and improving the Services. Client's right to access and use the Services, and Apptegy's license to Client Content, will automatically terminate upon termination or expiration of this Agreement.

3. Fees. Client will pay to Apptegy all fees set out in the Order Form. Upon execution of this Agreement, Apptegy will submit an initial invoice to Client for the first year of Services and for all other fees due upon execution. Apptegy will invoice all subsequent-year fees on or about the anniversary of the applicable Client Start Date(s) (as defined below). Client agrees to pay all invoices in full within 30 days of the date of the invoice. Client agrees that (i) development and implementation fees are due in full upon execution of this Agreement, (ii) fees for use of the Services are payable in annual portions for each year of the License Term as set out in the Order Form, (iii) fees for use of the Services are subject to Three Percent (3%) annual increases, starting the first renewal year after the last year of the term initially purchased by Client and continuing each year thereafter, as set out in the Order Form, and (iv) discounts for purchases of bundled Services will automatically expire if Client cancels any of the bundled Services and Client will thereafter be invoiced for the full price of the continuing Services. Client acknowledges that fees for Services do not include taxes, duties, and other government charges, including, sales, use, consumption, VAT, GST, and other withholding, as applicable, and Client is solely responsible for any such obligations.

4. License Term. The term of Client's license to use the Services (the "**License Term**") will start on the date(s) set out on the Order Form (the "**Client Start Date(s)**"). Clients that purchase multiple Apptegy products may have different license start dates for different products. If no license start date is set out on the Order Form, the Thrillshare Media Client Start Date will be the date that is 60 days after Apptegy receives an executed Agreement from Client and the Thrillshare Rooms Client Start Date will be the date that is 90 days after Apptegy receives an executed Agreement from Client. The License Term will terminate on the anniversary of the applicable Client Start Date(s) that is after the number of license years initially purchased by Client, as set out in the Order Form, plus any renewal periods. This Agreement will renew for successive, additional periods of one (1) year from the anniversary of the Client Start Date(s), unless Client provides Apptegy with written notice of non-renewal before the end of the then-current License Term. Subject only to applicable procurement and appropriations law, Client agrees that it may not terminate this Agreement before the expiration of any then-current License Term without cause, unless Client pays Apptegy all fees in full for all license years of the then-current License Term, as set out in the Order Form, plus payment of any previously discounted amounts for the Services during the Term. All fees paid to Apptegy are non-refundable, subject only to applicable procurement and appropriations law.

5. Performance Terms. In addition to this Agreement, the rights and obligations of the Client and Apptegy with respect to providing, accessing, and using the Services will also be subject to and governed by the Apptegy Terms of Use ("**Terms of Use**") and Privacy Policy ("**Privacy Policy**"), available at the following links: <https://www.apptegy.com/terms-and-conditions/> and <https://www.apptegy.com/privacy-policy/>. The Terms of Use and Privacy Policy, as each may be amended, are incorporated into this Agreement in their entirety, as applicable to Client. Without limiting the generality of the foregoing, the Terms of Use and Privacy Policy set out and govern the terms and conditions for Services availability, User eligibility and acceptable use, data privacy and security, regulatory notices and information, warranties, disclaimers, and liability limitations, assignment, and other related terms. The applicability of the Terms of Use and Privacy Policy is limited to the order of priority set out below.

6. Carrier Restrictions. Apptegy provides unlimited text, voice, and email messaging to Client subject to restrictions placed on Apptegy by mobile and wireless carriers and network operators (collectively, "**Carriers**"). For example, Carriers have (i) placed limits on the number of characters that may be included in messages sent via the Services and (ii) placed restrictions on the type of messaging content that may be sent through the Services. Carrier restrictions are not within the control of Apptegy and are subject to change without notice. When a Carrier places new or modified restrictions on Apptegy, certain features and functions of the Services may change as a result without notice to you. Client agrees that Apptegy will not be responsible or liable for any change in Services that arise from or in connection with Carrier restrictions.

7. TCPA/CTIA Compliance. Client is exclusively responsible for complying with all applicable laws and regulations governing communications sent via the Services by Client and Users under Client's account, including, but not limited to, the Telephone Consumer Protection Act of 1991, as it may be amended ("**TCPA**"), and the requirements and policies of CTIA – The Wireless Association ("**CTIA**"). Client is encouraged to establish and implement methods and procedures to ensure compliance with applicable laws and regulations, including the TCPA and the CTIA, and to

inform and train each of its employees, contractors, and representatives who use the Services on the methods and procedures. Apptegy may provide Client with materials and information about such laws and regulations, including the TCPA and the CTIA; Client acknowledges that all such materials and information is provided for general education purposes only. No such act by or information from Apptegy (whether individually or taken as a whole) will create or be deemed to create responsibility or liability on the part of Apptegy with respect to Client's compliance with the laws and regulations governing the communications sent via the Services by Client and Users under Client's account, including the TCPA and/or the CTIA.

8. COPPA Notice and Compliance. Apptegy prohibits use of the Services by children under the age of thirteen (13), unless and only to the extent the child is a User invited or added to the Services by Client. When children are invited or added to the Services as Users under Client's account, Apptegy provides the Services with respect to the children solely in the educational context authorized by Client under this Agreement, and solely for the benefit of Client and its Users. Client consents, as agent for and on behalf of such children (and their parents and guardians), to Apptegy's collection, use, and storage of personal information about or from the children in accordance with this Agreement. Client acknowledges that Apptegy is relying on Client's consent in the previous sentence for the purposes of complying with the Children's Online Privacy Protection Act, as it may be amended ("**COPPA**"), and that Apptegy is authorized to presume that Client has obtained and will maintain all required parent or guardian consent for Apptegy's collection, use, and disclosure of information for any children under the age of thirteen (13) that are invited or added to the Services under Client's account.

Please note that Client is responsible for complying with COPPA with respect to Users under Client's account if Client invites or adds children under the age of thirteen (13) to the Services. Client is encouraged to establish and implement methods and procedures to ensure compliance with COPPA, and to inform and train each of its employees, contractors, and representatives who use the Services on the methods and procedures. Apptegy may provide Client with materials and information about complying with COPPA; Client acknowledges that all such materials and information is provided for general education purposes only. No such act by or information from Apptegy (whether individually or taken as a whole) will create or be deemed to create responsibility or liability on the part of Apptegy with respect to Client's compliance with COPPA.

The Terms of Use and Privacy Policy, accessible as set out above, confirm that Apptegy may collect information about children as a necessary part of providing the Services to Client (for example, as applicable: contact information for communications sent via the Services; posts made on messaging tools in the Services; information included in assignments and other class content submitted via the Services) and provide notice regarding Apptegy's collection, use, and disclosure of personal information from children. Please note that some or all of this information may not be private as to the individual child, parent, or guardian. For example, for Users of Rooms, information shared by a User via the chat feature of Rooms will be visible to Client, as the party providing access to the Services to its Users. In some circumstances, information provided by or about a child may be available or visible to other individual Users. For example, for Users of Rooms, information about a child that is posted in the group messaging tool in a child's Room may be visible to other individual Users that are also authorized users for the same Room. Apptegy will collect, use, and disclose such information in accordance with COPPA and the Privacy Policy.

9. Accessibility Compliance. Client is exclusively responsible for complying with all applicable laws and regulations governing accessibility of the parts of the Services under the control of Client (for example: Client's website and/or mobile applications), including, but not limited to, the Americans with Disabilities Act, as it may be amended ("**ADA**"), and the requirements and policies of Web Content Accessibility Guidelines ("**WCAG**"). Client is encouraged to establish and implement methods and procedures to ensure compliance with applicable laws and regulations, including the ADA and the WCAG, and to inform and train each of its employees, contractors, and representatives who use the Services on the methods and procedures. The Services include tools to assist Client with accessibility compliance, and Apptegy may provide Client with materials and information about such laws and regulations, including the ADA and the WCAG; Client acknowledges that all such tools, materials, and information are provided to assist Client with its compliance obligations and for general education purposes only. No such functionality, act by, or information from Apptegy (whether individually or taken as a whole) will create or be deemed to create responsibility or liability on the part of Apptegy with respect to Client's compliance with the laws and regulations governing accessibility of the parts of the Services under the control of Client (for example: Client's website and/or mobile applications), including the ADA and/or the WCAG.

10. Third Party Functions. Apptegy relies on third-party providers and partners for parts of the Services (for example: posting a message or communication on a Facebook or Twitter account; hosting Client websites). APPTEGY IS NOT RESPONSIBLE FOR ANY CONSEQUENCE, LOSS, OR DAMAGE (DIRECT OR INDIRECT) ARISING FROM OR RELATING TO THE PARTS OF THE SERVICES MANAGED OR MADE AVAILABLE BY OR VIA THIRD-PARTY PROVIDERS AND PARTNERS. Please see the Terms of Use and Privacy Policy for more information.

11. Disclaimers; Limited Liability. Apptegy provides the Services subject to certain disclaimers and limitations of liability. Please see the Terms of Use and Privacy Policy for more information.

12. Intellectual Property. Nothing in this Agreement or the performance of this Agreement will convey, license, or otherwise transfer any right, title, or interest in any intellectual property or other proprietary rights held by either party, except as expressly set out in the Agreement. Apptegy retains all right, title, and interest in all intellectual property rights, including patent, trademark, trade secret, and copyright (whether registered or unregistered), in and to the Services and the underlying software and technologies, all related technical documentation, and all derivative works, improvements, and modifications to any of the foregoing. Client agrees the foregoing is necessary to Apptegy providing the Services.

13. Compliance with Laws. The parties agree to comply with all laws applicable to the use of the Services and performance of this Agreement.

14. Miscellaneous. The Order Form and Master Services Agreement, together with (i) the Terms of Use and Privacy Policy, and (ii) the Client Addendum, if applicable, is the entire agreement between the parties with respect to the subject matter, and supersedes all prior agreements and understandings, whether written or oral. If any conflict or ambiguity exists with respect to any term or condition of any of the foregoing, the following priority will govern and control: (1) if applicable, the Client Addendum for all matters expressly addressed in the Client Addendum; then (2) this Order Form and Master Services Agreement for all other matters; and then (3) the Terms of Use and Privacy Policy. Apptegy is not subject to any obligations that are not expressly identified in this Agreement, a Client Addendum, or the Terms of Use and Privacy Policy.

This Agreement is governed by the laws of the state in which Client is located, without regard to conflict of law principles. The parties irrevocably submit to the exclusive jurisdiction and venue of the federal courts having jurisdiction where Client is located for any dispute that relates to the Services or this Agreement. Except as set out in this Agreement, this Agreement may not be amended or modified without the prior written

consent of both parties. Neither party may assign this Agreement without the prior written consent of the other party, except in connection with a merger, acquisition, or sale of all or substantially all of a party's assets or voting securities. If any provision(s) of this Agreement is held invalid or unenforceable, such invalidity or unenforceability will not invalidate or render the Agreement unenforceable, but rather the Agreement will be construed as if not containing the unenforceable provision(s), and the rights and obligations of the parties will be construed and enforced to honor the parties' original intent to the maximum extent permitted under applicable law. This Agreement will inure to the benefit of the successors and assigns of the parties. The Agreement may be executed in multiple counterparts and executed by original, facsimile, or electronic signature (including PDF, Proposify, HelloSign, and similar methods), each of which when delivered will be deemed an original, and all of which together will constitute one agreement.

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