

SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

BOARD AGENDA ITEM – December 13, 2021

DEPARTMENT/SCHOOL INITIATED AGREEMENT

22-310-A-WH Snap & Read

<input type="checkbox"/> (BW) Bids Waived	<input checked="" type="checkbox"/> (A) Agreement
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REQUESTOR: ESE Program Support

Legal Review Required: Yes No

Standard Template Used with No Changes: Yes No

Standard Template Type: SLA with revisions

VENDOR NAME	AMOUNT AWARDED	REQUIRED PRODUCTS/SERVICES
Don Johnston, Inc. d/b/a Snap & Read Universal	\$53,892.00	Snap & Read Unlimited
Total	\$53,892.00	

<input type="checkbox"/> Contract Renewal	New Contract Amount	\$53,892.00
<input type="checkbox"/> Recurring Contract	Previous Contract Amount	\$53,870.40
<input checked="" type="checkbox"/> New Contract	Variance	\$21.60

PRICE INCREASE / DECREASE EXPLANATION: Negligible.

DISCUSSION:

Student experience with complex grade-level content is critical for closing learning gaps and increasing academic success for all students. Snap & Read provides a range of digital tools to all teachers and students and can be used to support quality literacy instruction. These tools can be used across devices and platforms. IDEA funds will be used to make this purchase.

The standard SLA has been used, with revisions approved by Legal on November 17, 2021.

CONTRACT TERM:

The initial contract term shall commence January 16, 2022 and continue until January 15, 2023.

RECOMMENDATION:

It is the recommendation of Christine Moore, Assistant Superintendent of Student Services, and Dr. Kimberly Bias to approve the attached purchase from Don Johnston, Inc. in the amount of \$53,892.00.

AUTHORITY FOR ACTION:

Florida Administrative Code 6A-1.012(11)(b)



26799 W Commerce Dr
Volo, Illinois 60073-9675
United States

22-310-A-WH
Approved: _____

Prepared By	Dave Butler	Quote Number	00024678
Phone	(800) 999-4660	Created Date	11/3/2021
Email	dbutler@donjohnston.com	Expiration Date	4/23/2022

Contact Name: Patty Adams
 Contact Email: adams.patricia@brevardschools.org

Bill To Name	The School Board of Brevard County, Florida	Ship To	2700 Judge Fran Jamieson Way
Bill To	2700 Judge Fran Jamieson Way Viera, Florida 32940 United States		Viera, Florida 32940-6699 United States

Product	License Category	Product Quantity	Total Price	Line Item Description
Snap & Read	District	1	\$49,900.00	1 Year License Subscription - Renewal

Subtotal	\$49,900.00
Shipping and Handling	\$0.00
Implementation Fee	\$3,992.00
Tax	\$0.00
Grand Total	\$53,892.00

Sales tax. The following states are subject to sales tax: AZ, CA, FL, GA, IL, IN, MA, MD, MN, NC, NJ, OH, PA, SD, TX, VA, and WA. States listed above need to add the appropriate amount of tax to the Purchase Order or supply a tax-exempt certificate to Don Johnston Incorporated. Thank you.



Agreement #: 22-310-A-WH
Approval Date: _____

SOFTWARE LICENSE ADDENDUM

THIS SOFTWARE LICENSE ADDENDUM (“Software Addendum”) is entered into by and between The School Board of Brevard County, Florida, a political subdivision of the State of Florida, located at 2700 Judge Fran Jamieson Way, Viera, Florida 32940, more commonly known as Brevard Public Schools (hereinafter referred to as “BPS”) and Don Johnston Incorporated dba Snap&Read Universal whose business address is 26799 W. Commerce Drive Volo, Illinois 60073, (hereinafter referred to as “Contractor”), and is intended to supplement the agreement entered into between the parties effective upon issuance of Purchase Order under Agreement # 22-310-A-WH regarding software and/or Services to be provided by Contractor to BPS.

1. **TERM** – The term of this Software Addendum will coincide with the term of the agreement between the parties, January 16, 2022 through January 15, 2023, and may be renewed at the end of the term on the same or substantial similar terms by mutual written agreement of the parties.

2. **DEFINITION OF “AGREEMENT” AND CONFLICT** - As used herein, the term “agreement” shall mean Contractor’s standard form contracts and/or terms and conditions, any and all exhibits and attachments thereto, and any additional terms and conditions incorporated or referenced therein. Contractor’s standard terms and conditions in the agreement, and any additional terms and conditions incorporated or referenced therein, are, with the exceptions noted herein, acceptable to BPS. Nonetheless, because certain standard clauses that may appear in, or be incorporated by reference into, Contractor’s agreement cannot be accepted by BPS, and in consideration of the convenience of using those standard agreements without the necessity of specifically negotiating a separate contract document, the parties hereto specifically agree that, notwithstanding any provisions appearing in the attached Contractor’s agreement, the following provisions as set forth in this Software Addendum shall control in the event of a conflict and they are specific to The School Board of Brevard County, Florida as a local educational agency.

3. **DISPUTES** - Any references in the agreement to arbitration are hereby deleted. Jurisdiction resides in the Circuit Court in Brevard County, Florida, the local educational agency’s county. Agreements to engage in nonbinding mediation are permissible.

4. **HOLD HARMLESS** - Any clause requiring the BPS to indemnify or hold harmless any party is hereby deleted in its entirety. In addition, nothing in the agreement shall be deemed to be a waiver of the BPS’s rights, privileges, and immunities as set forth in Section 768.28, F.S.

5. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of Florida. This provision replaces any references to any other State’s governing law.

6. **TAXES** - Provisions in the agreement requiring BPS to pay taxes are deleted. As a political subdivision of the State of Florida, BPS is generally exempt from Federal, State, and local taxes and will not pay taxes for any Contractor including individuals, nor will BPS file any tax returns or reports on behalf of Contractor or any other party.

7. **PAYMENT** - Annual licensing and maintenance costs are payable at the beginning of each renewal period. Payment for services will be in arrears. Any references to prepayment are deleted. In accordance with the Local Government Prompt Payment Act, found in Section 218.70, F.S., payment by BPS shall be made within forty-five (45) days of receipt of an invoice from Contractor.

8. **INTEREST** – Any provision for interest or charges on late payments is deleted. BPS has no statutory authority to pay interest or late fees.

9. **NO WAIVER** - Any language in the agreement requiring BPS to waive any rights, claims, or defenses is hereby deleted.

10. **FISCAL YEAR FUNDING** - Services performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Florida Legislature or otherwise being available for these Services. In the event funds are not appropriated or otherwise available for these Services, the agreement shall terminate without penalty at the end of BPS's fiscal year on June 30. After that date, the agreement becomes of no effect and is null and void. However, BPS agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.

11. **STATUTE OF LIMITATION** - Any clauses in the agreement limiting the time in which BPS may bring suit against Contractor, lessor, individual, or any other party are deleted.

12. **SIMILAR SERVICES** - Any provisions in the agreement limiting BPS's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.

13. **ATTORNEY FEES** - BPS recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision regarding attorney fees in the agreement is invalid and considered null and void.

14. **ASSIGNMENT** - Notwithstanding any clause to the contrary in the agreement, Contractor shall obtain the written consent of BPS prior to assigning the agreement.

15. **LIMITATION OF LIABILITY** – Intentionally Deleted

16. **RIGHT TO TERMINATE** –BPS shall have the right to terminate the agreement upon thirty (30) days' written notice to Contractor. BPS agrees to pay Contractor for services received prior to the effective date of termination.

17. **TERMINATION CHARGES** - Any provision requiring BPS to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. BPS may only agree to reimburse Contractor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by BPS prior to the end of any current agreement term.

18. **RENEWAL** - Any reference to automatic renewals are hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.

19. **INSURANCE** - Any provision requiring BPS to purchase insurance for Contractor's property is deleted. BPS is self-insured and will provide a certificate of property insurance upon request. Contractor, if coming onto property owned or operated by BPS, shall maintain the following types of insurance at its sole expense:

a. Workers' Compensation insurance in statutory amounts and Employer's Liability in an amount not less than One Million Dollars (\$1,000,000) each accident/disease. This insurance shall apply to all Contractor's employees who will be engaged in the performance of the Services under the agreement.

b. Commercial General Liability insurance, including products and completed operations and contractual liability, arising from any and all claims for property damage and bodily injury, including death, in an amount not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) aggregate. This policy must include The School Board of Brevard County, Florida, its board members, employees, and representatives as additional insured.

c. Automobile Liability insurance, including all owned, non-owned, and hired vehicles used in conjunction with providing Services outlined in the agreement, for property damage and bodily injury, including death, in an amount not less than One Million Dollars (\$1,000,000) each accident. This policy must include The School Board of Brevard County, Florida, its board members, employees, and representatives as additional insured.

d. Professional Liability insurance for any and all claims as a result of an action, lack of action, error or omission by Contractor, its employees, or subcontractors in an amount not less than One Million Dollars (\$1,000,000) each

claim. If such policy is written on a "claims-made" basis, coverage shall remain in effect for three (3) years after the expiration or termination of the agreement and any of its extensions.

20. **RIGHT TO NOTICE** - Any provision in the agreement for repossession of equipment without notice is hereby deleted. However, the BPS does recognize a right of repossession with notice.

21. **ACCELERATION** – Any reference in the agreement to acceleration of payments in the event of default or nonfunding is hereby deleted.

22. **CONFIDENTIALITY** – Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. BPS contracts are public records under the Florida Public Records Laws and subject to disclosure upon request unless otherwise made confidential or exempt under the F.S..

23. **FERPA** – To the extent Services provided hereunder pertain to the access to student information, Contractor shall adhere to all standards included in the Family Educational Rights and Privacy Act (FERPA) and Sections 1001.41 and 1002.22, F.S. (the Protection of Pupil Privacy Acts), and other applicable laws and regulations as they relate to the release of student information.

24. **INDEMNIFICATION**

a. Each party shall defend, indemnify, and hold harmless the other, their affirmed entities, their successors, and assigns from and against any and all liabilities, claims, costs, closes, damages, expenses, and attorneys fees, resulting from or attributable to the exclusive negligent acts or omissions of that party in performance of this Agreement. The agreement to indemnify and hold harmless shall survive the expiration or the termination of this Agreement for any reason.

b. Nothing herein shall be deemed a waiver by DISTRICT of its rights, privileges, and immunities as set forth in Section 768.28, Florida Statutes, nor any sovereign immunity rights beyond any statutory limited waiver that may have been or may be adopted by the Florida Legislature. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity.

25. **PUBLIC RECORDS – EFFECTIVE JULY 1, 2016 IF THE BIDDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE BIDDER’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 321-633-1000 ext. 11453. RECORDSREQUEST@BREVARDSCHOOLS.ORG. THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA, 2700 JUDGE FRAN JAMIESON WAY, VIERA, FL 32940.**

a. The agreement and this Software Addendum are subject to and governed by the laws of the State of Florida, including without limitation Chapter 119, F.S., which generally makes public all records or other writings made by or received by the Parties. Contractor acknowledges its legal obligation to comply with Section 119.0701, F.S. Contractor shall keep and maintain public records, as that phrase is defined in the Florida Public Records Act, which would be required to be kept and maintained by BPS in order to perform the scope of services. Contractor shall comply with all requirements for retaining public records and shall transfer, at no cost to BPS, all public records in the possession of Contractor upon a request for such public records. See Section 119.0701(2)(b)4, F.S., for additional record keeping requirements.

b. A request to inspect or copy public records relating to BPS’s contract for services must be made directly to BPS’s Custodian of Public Records. If BPS does not possess the requested records, BPS’s Custodian of Public Records shall immediately notify Contractor of the request. Contractor must provide a copy of the records to BPS or allow

the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. If Contractor does not timely comply with BPS's request for records, BPS shall be able to sue for breach of contract.

c. Should Contractor fail to provide the requested public records to BPS within a reasonable time, Contractor understands and acknowledges that it may be subject to penalties under Sections 119.0701(3)(c) and 119.10, F.S.

d. Contractor shall not disclose public records that are exempt, or confidential and exempt, from public records disclosure unless specifically authorized by law for the duration of the agreement term and following the completion, expiration, or termination of same if Contractor does not transfer the records to BPS. Upon completion, expiration, or termination of the agreement, Contractor shall transfer, at no cost to BPS, all public records in its possession, or allow BPS to download such public records over the internet or keep and maintain public records required by BPS to perform the services. If Contractor transfers all public records to BPS, Contractor shall destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. If Contractor keeps and maintains public records upon completion, expiration, or termination of the agreement, Contractor shall meet all applicable requirements for retaining public records and provide requested records to BPS pursuant to the requirements of this section. All public records stored electronically must be provided to BPS in a format that is compatible with the information technology systems of BPS.

26. **AMENDMENTS** - All amendments, modifications, alterations, or changes to the agreement or this Software Addendum shall be in writing and signed by both parties. No future amendment, modification, alteration, or change may be made to the agreement or this Software Addendum without the express written consent of the parties.

27. **INCORPORATION BY REFERENCE** – In addition to Contractor's agreement, a copy of Contractor's standard terms and conditions as they appear on the date of execution of this Software Addendum are attached hereto and incorporated herein as Exhibit "A."


28. **E-Verify**. Under Executive Order 11-116, and Section 448.095, Fla. Stat., effective July 1, 2020, Contractor shall use the U.S. Agency of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all employees hired during the term of this Agreement. Contractor shall also require all subcontractors performing work under this Agreement to use the E-Verify system for any employees they may hire during the term of this Agreement. Contractor must provide evidence of compliance with 448.095, Fla. Stat by January 1, 2021. Evidence may consist of, but is not limited to, providing notice of Contractor's E-Verify number. Failure to comply with this provision is a material breach of the Agreement, and BPS may choose to terminate the Agreement at its sole discretion.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, BPS has made and executed this Software License Addendum and Contractor has made and executed this Software License Addendum on the day and year below written.

IN WITNESS WHEREOF, BPS has made and executed this Software License Addendum and Contractor has made and executed this Software License Addendum on the day and year below written.

DON JOHNSTON INCORPORATED DBA SNAP&READ UNIVERSAL

By:  Date: Nov 19, 2021

Authorized Representative Signature

Print Name: Ruth Ziolkowski

Title: President

THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

By: _____ Date: _____
Misty Belford, Board Chairperson

EXHIBIT "A"
CONTRACTOR'S STANDARD TERMS AND CONDITIONS ATTACHED

Snap&Read Universal

Terms of Service

Effective Date: June 20, 2016

Snap&Read Universal's products and services are provided by Don Johnston Incorporated ("DJI" or "We" or "Us"). These Terms of Service ("Terms") govern your access to and use of Snap&Read Universal's website, products, and services ("Products").

Agreeing to the Terms

By accessing or using Snap&Read Universal, you agree to be bound by these Terms, Privacy Policy, and any applicable Organizational License Agreement.

If you create an account on behalf of an Educational Institution, company, or other entity ("Organization"), then (a) "you" includes you and the Organization, and (b) you represent and warrant that you are authorized to grant all permissions and licenses provided in these Terms and bind the Organization to these Terms, and that you agree to these Terms on the Organization's behalf.

If you are under the age of 18, you must have your parent or guardian read these Terms and agree for you, or have your teacher, professor, representative of school district/university ("Educator") or Educational Institution read these Terms and agree for you. If you do not have consent from your parent, guardian, Educator, or Educational Institution, you do not have permission to use Snap&Read Universal.

If you are a parent, guardian, educator or Educational Institution and you consent for your child or student to create an account and use Snap&Read Universal, you agree to be bound by these Terms.

If you are under the age of 13 ("Child User"), you may not register any other type of account other than a "Child Account" (set up by your parent or guardian) or a "Student Account" (set up by an Educator or Educational Institution).

Changes to the Terms of Use

We reserve the right to modify the Terms at any time, but you will be notified on Snap&Read Universal's login page or by some other means. We will not change the Terms in any material way without providing notice of the change via email to you (in the case of a Child User, to the Parent or Guardian; and in the case of a Student User, to the Educator User), and obtaining consent to any new uses. If you do not agree with the new terms, you may reject them, but you will need to terminate your account and/or stop using Snap&Read Universal. Your continued use constitutes your acceptance of the new Terms.

Using Snap&Read Universal

Account Registration and Security

As a condition to using Snap&Read Universal, you must register for an account. Accounts can be created with a password and either a username or valid email address. Accounts can also be created through an Integrated Service such as, but not limited to, “Google Sign-In.”

You will provide true, accurate, complete, and updated account information. You may not select or use the name or email of another person without that person’s prior authorization. You are responsible for maintaining the confidentiality of your account and password, and you agree to accept responsibility for all activities that occur under your account. If you learn of any unauthorized use of your account, contact us at support@donjohnston.com.

You may not transfer your account to anyone without express prior written consent of Don Johnston Incorporated. An account can be created for and accessed by a single individual only. You may not share an account with anyone without express prior written consent of Don Johnston Incorporated. Violation of any of the foregoing may result in immediate termination of your account, revocation of your ability to use Snap&Read Universal, and may subject you to reimburse us for unauthorized accounts, pay for past use, state and federal penalties, and other legal consequences.

Don Johnston Incorporated reserves the right, but will have no obligation, to investigate your use of Snap&Read Universal in order to determine whether a violation of the Terms has occurred or to comply with any applicable law, regulation, legal process or governmental request.

Integrated Service

Snap&Read Universal permits you to register for an account through third party integrated services, such as, but not limited to, “Google Sign-in.” By registering with an Integrated Service, you agree that Don Johnston Incorporated may access your unique identifier provided by the Integrated Service and your registration information: your first name, last name, and email address.

Use by Children under 13 (Child User)

If you are a Child User, you may not create an account. You must either use a Child Account created through a Parent Account or a Student Account created through an Educator Account.

We do not collect personally identifiable information on Child Accounts. Collected information for Student Accounts are solely used for educational purposes by Educator(s) and Educational Institution(s).

We do not knowingly collect or solicit personally identifiable information from a Child User except in the following circumstance: We may collect personal information through Snap&Read Universal from a Child User where that Child User's Educational Institution and/or Educator has agreed to 1) obtain parental or legal guardian consent or 2) consent on the parent or guardian's behalf for that Child User to use Snap&Read Universal with a Student Account and disclose personal information solely for educational use.

If you are an Educational Institution or Educator, you represent and warrant that you are responsible for complying with The Children's Online Privacy and Protection Act ("COPPA"). If we learn we have collected personal information from a Child User other than pursuant to the above, we will delete that information as quickly as possible.

Parent User

If you are at least 18 years of age and you are the legal parent or guardian of a child, you may register a Parent Account. As a Parent User, you may create, register, and manage Child User accounts only for your own child or children for whom you are a legal guardian. If you register a Child User, you represent and warrant that you are such Child User's legal parent or guardian and you agree to be bound by the Terms on Behalf of such Child User.

Educator User

If you are at least 18 years of age and you provide education to students, you may register an Educator Account. Snap&Read Universal makes available to Educators an educator, analyst, and administrator account that permits such Educator Users to register student accounts and/or review and evaluate educational data of such Student Users. You represent and warrant that you will use all information collected by Snap&Read Universal solely to provide education-related services. You represent and warrant that you are responsible for complying with the Family Educational Rights and Privacy Act ("FERPA") and The Children's Online Privacy and Protection Act ("COPPA"). If you are an Educator User and you register an account for a Student User, you represent and warrant that 1) you have received express consent from such Student User's parent or legal guardian for you to register the Student User and for you to provide Snap&Read Universal the information you disclose in connection with the registration of such Student User, or 2) you are consenting on the parent or guardian's behalf to provide Snap&Read Universal the information you disclose in connection with the registration of such Student User solely for educational purposes.

Collection and Use of Personal Information

For information about Snap&Read Universal's policies and practices regarding the collection and use of personal information, please read Snap&Read Universal's Privacy Policy. The Privacy Policy is

incorporated by reference and made part of these Terms. By agreeing to these Terms, you agree that your use of Snap&Read Universal is governed by the Privacy Policy.

Subscriptions and Billing

Educator and Parent Users with Credit Card

Purchasing

After your free trial, you will not be charged unless you decide to purchase a subscription for Snap&Read Universal. You pay only for the Student or Child Accounts you have set up.

Once purchased, you will be charged immediately for your first month of your subscription (often called pre-billing). You will be billed automatically every month until the subscription is canceled.

Adding More Students/Children

You may want to purchase the product for more students/children. We will automatically prorate the additional charges. You will not be charged immediately for the additional students/children: those charges will be reflected on the next invoice. Again, the plan changes impact the next invoice, which remains on the same billing cycle (as your plan will always have the same billing frequency). The prorated amount is calculated down to the second. We will calculate the differences between the two plans based on the exact time you added/removed students/children and their relation to the current billing period's start and end times.

Removing Students/Children

If you decide to remove students/children from your plan, you will receive a prorated credit, which will be reflected on the next invoice. The prorated credit is calculated down to the second. We will calculate the differences between the two plans based on the exact time you added/removed students/children and their relation to the current billing period's start and end times.

Canceling All Subscriptions

When you cancel all subscriptions, your card will not be charged again. Cancellation takes effect immediately. If your subscription was canceled partway through the billing period, you will not be credited a refund.

Failed Payments

If a payment fails, we will automatically retry. If it fails repeatedly, your subscription will be canceled.

Invoice Timing

An invoice is created at the end of the subscription's billing cycle.

Processing of Payments

We use Stripe, a third party electronic payment processor to process credit card transactions for payment of Snap&Read Universal. You irrevocably authorize us to instruct Stripe to handle such transactions, and you irrevocably agree that we may give instructions on your behalf in accordance with your requests submitted within Snap&Read Universal. You agree to be bound by the terms and conditions of Stripe, and in the event of conflict between these Terms and Stripe's Terms, these Terms shall prevail.

Personal User with a Credit Card

Purchasing

After your free trial, you will not be charged unless you decide to purchase a subscription for Snap&Read Universal.

Once purchased, you will be charged immediately for the first month of your subscription (often called pre-billing). You will be billed every month until the subscription is canceled.

Canceling Subscription

When you cancel your subscription, your card will not be charged again. Your subscription will be canceled at the end of the billing cycle. If your subscription was canceled partway through the billing period, you will be able to use the product for the remainder of the monthly billing period, but no money will be refunded.

Failed Payments

If a payment fails, we will automatically retry. If it fails repeatedly, your subscription will be canceled.

Invoice Timing

An invoice is created at the end of the subscription's billing cycle.

Processing of Payments

We use Stripe, a third party electronic payment processor to process credit card transactions. You irrevocably authorize us to instruct Stripe to handle such transactions, and you irrevocably agree that we may give instructions on your behalf in accordance with your requests submitted within Snap&Read Universal. You agree to be bound by the terms and conditions of Stripe, and in the event or conflict between these Terms and Stripe's Terms, these Terms shall prevail.

Organizational Accounts

You agree to pay DJI a license fee for the Initial Term based upon the current fee schedule as set forth in the Invoice. Prior to the end of the Initial Term, DJI shall, based upon the current fee schedule or as otherwise agreed to by the parties, invoice you the amount payable for the annual fee for each subsequent Renewal Term. To ensure continuity of service, you agree to pay the invoice amount prior to the end of the term.

If you cancel your subscription, you will not be invoiced again. Your subscription will be canceled at the end of the billing cycle. If your subscription was canceled partway through the billing period, you will be able to use the product for the remainder of the billing period, but no money will be refunded.

If you terminate for any reason prior to the end of the Initial or Renewal Term, your organization shall be liable to DJI for payment of all Fees through the entire Initial or Renewal Term.

Saving Sensitive Information

You agree to not save Protected Health Information (any information about one's health status, provision of health care, or payment for health care), Cardholder Data (any information associated with one's credit or debit card), Social Security Number, or Bank Account Information within Snap&Read Universal. Data is transmitted securely through Secure Socket Layer (SSL) and is encrypted while at rest on our servers, but as a best practice you should avoid storing such information within Snap&Read Universal. See the Privacy Policy for more information on what is saved on Snap&Read Universal's servers.

Miscellaneous

Student records continue to be the property of and under the control of the educational institution.

Copyright Notice. All the visual interfaces, design, compilation, information, source code, object code, services, and all other elements of Snap&Read Universal are protected under the copyright laws of the United States and other countries. Any unauthorized reproduction, derivative work, distribution, in whole or in part and by any means, electronic or otherwise, of Snap&Read Universal material or licensed material is strictly prohibited and may subject the offender to civil liability and severe criminal penalties (Title 17, United States Code, Sections 501 and 506).

Trademark Notice. All trademarks, service marks, and trade names, contained on or available through Snap&Read Universal are owned by Don Johnston Incorporated. Our terms do not grant you the right to use our trademarks, service marks, or trade names. All reference to other brands and products appearing on Snap&Read Universal are trademarks of their respective owner.

Relationship of Parties. This Agreement shall not be construed as creating a legal agency, partnership, joint venture or any other form of legal association and shall not represent to the contrary, whether expressly, by implication, appearance or otherwise.

Waiver; Construction. Failure by DJI to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. Each party acknowledges and confirms that it has reviewed this Agreement and that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation and/or construction of this Agreement.

Assignability. Neither this Agreement nor any interest, licenses, or rights may be assigned, transferred, or conveyed, in whole or in part. Any assignment in violation of this Agreement is deemed null and void. DJI shall have the right to assign, transfer, or convey any interest, licenses, or rights, in whole or in part of this Agreement.

Severability. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the economic benefits and intent of the parties, and the remainder of this Agreement will continue in full force and effect.

Limitation of Liability. UNDER NO CIRCUMSTANCES SHALL DJI, OR ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE TO YOU FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, AND THE LIKE) ARISING OUT OF OR RELATING TO SNAP&READ UNIVERSAL OR YOUR USE, YOUR RELIANCE ON THE SNAP&READ UNIVERSAL, MODIFICATION, PRODUCTION, DELIVERY, MISUSE OR INABILITY TO USE THE SNAP&READ UNIVERSAL OR ANY PORTION THEREOF, WHETHER UNDER A THEORY OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCTS LIABILITY OR OTHERWISE, EVEN IF DJI OR DJI'S AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY, SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. In no event shall DJI's total liability to YOU for all damages, losses and any cause of action whatsoever (whether in contract, tort (including negligence) or otherwise exceed the price paid by You in the twelve month period preceding this applicable claim for the use of Snap&Read Universal. YOU AGREE TO BEAR ALL COSTS RESULTING FROM THE USE OF SNAP&READ UNIVERSAL. DJI ASSUMES NO RESPONSIBILITY FOR ERRORS OR OMISSIONS IN CONTENT OR OTHER DOCUMENTS WHICH ARE REFERENCED OR LINKED TO SNAP&READ UNIVERSAL. Snap&Read Universal may contain links to third party sites on the internet that are not under the control of DJI. DJI is not responsible for the content or available of any linked third party sites.

Duty to Back Up Computer System, Data, and User Content. YOU AGREE THAT IT IS YOUR RESPONSIBILITY TO MAINTAIN BACKUP COPIES OF YOUR COMPUTER SYSTEM AND ANY AND ALL DATA

OR ELECTRONIC FILES OF INCLUDING, BUT NOT LIMITED TO, ANY AND ALL DOCUMENTS, INFORMATION, PROGRAMS, USER CONTENT, OR OTHERWISE THAT ARE USED, POSTED, STORED, OR HOSTED BY DJI, OR OTHERWISE USED IN CONJUNCTION WITH SNAP&READ UNIVERSAL ("DATA"). YOU FURTHER AGREE THAT DJI IS NOT RESPONSIBLE FOR ANY DATA (AS DEFINED HEREIN).

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Force Majeure. Neither DJI nor your organization shall be liable for any breach of its obligations under this Agreement resulting from causes beyond its reasonable control including but not limited to fires, strikes (of its own or other employees), insurrection or riots, embargoes or container shortages, requirements or regulations of any civil or military authority.

Integration. DJI and you agree that this Amendment sets forth the entire Agreement and understanding between them as to the subject matter hereof and merge any and all prior discussions between them. Neither DJI nor you shall be bound by any warranties, understandings, or representations other than as expressly provided herein and in this Agreement.

Taxes. You shall, in addition to the other amounts payable under this Agreement, pay all taxes including but not limited to sales, and other taxes, federal, state, local, use, excise, value-added, privilege or assessments or governmental charges, or otherwise, and any other types of taxes, however designated, which are levied or imposed by reason of the transactions contemplated or relating to this Agreement.

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Contact Information

Don Johnston Incorporated welcomes your comments regarding the legal terms. If you have any questions or comments regarding the legal terms, please contact us electronically or via postal mail at the address provided below and Don Johnston Incorporated will use commercially reasonable efforts to promptly determine and remedy the problem.

Don Johnston Incorporated

Attn: Legal Department

26799 W. Commerce Drive

Volo, Illinois 60073

info@donjohnston.com Subject Line: Attn: Legal Department






22-310-A-WH - Snap & Read wRevised SLA

Final Audit Report

2021-11-19

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