

AMENDMENT

TO THE

Cheng & Tsui

AND

DAVIS JOINT UNIFIED SCHOOL DISTRICT

(Venue and Governing Law)

This Contract Amendment executed by Cheng & Tsui, hereinafter referred to as "Vendor", and Davis Joint Unified School District, hereinafter referred to as "District", which document shall amend the Agreement between the Vendor and District Agreement as follows:

The Agreement shall be governed by and construed in accordance with the laws of the State of California and all disputes arising out or relating to the Agreement shall be heard in Superior Court in Yolo County, California.

Subject to the terms and conditions set forth in this Amendment, the above referenced Service Agreement between the parties is hereby ratified and confirmed.

Cheng & Tsui

DAVIS JOINT UNIFIED SCHOOL DISTRICT

By: 

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

Name: Olivia Murphy

Name: Amari Watkins

Title: Sales Account Representative

Title: Assoc. Supt. of Business Services

Date: 9/28/2020

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



CHENG & TSUI

### **Privacy Policy**

This Privacy Policy is intended to inform you about the types of information gathered by Cheng & Tsui (“we” or “us”) when you visit the Cheng & Tsui website (the “C&T Website”), how we use and safeguard that information, and the degree to which you may control the maintenance and sharing of your information.

If you, or your parent or legal guardian, do not agree with any part of this Privacy Policy, then you may not use or access the C&T Website. Cheng & Tsui does not knowingly offer products or services through the C&T Website to anyone under the age of 13 years. If you are under 13 years of age, you may purchase products or services through the C&T Website only with the consent or involvement of a parent or guardian.

We may update this Privacy Policy from time to time. If you have elected to receive our email newsletter, we may attempt to inform you of any material changes by notification to the email address you have provided. Otherwise, you may view the most recent Privacy Policy on the C&T Website. Your continued use of the C&T Website after a revised version of this Privacy Policy is posted will be considered your acceptance of that revision.

### **Information Collection**

When you access and use C&T Website, we will not collect any personally identifiable information about you unless you voluntarily provide such information to us.

If you choose to purchase products or services from the C&T Website, we will ask you to provide certain personally identifiable information such as your name, address, phone number, and e-mail address, as well as credit card or other payment information and a billing address. We use this information only as necessary to provide you with the products or services you have requested.

All personal financial information required to complete your purchase will be securely collected for purposes of payment processing and completing the transaction. In some cases, we may securely provide this personal financial

information to a third-party vendor who handles payment processing services for the transaction.

### **Analytics Information**

We may automatically collect and store certain non-personally identifiable information about your use of the C&T Website. This information may include internet protocol (IP) addresses, browser type, mobile device type, date/time stamps, and related data. We use this information, which does not identify individual users, solely to improve the quality of our products and services. Out of respect for your privacy, we do not link this automatically-collected data to personally identifiable information.

### **Cookies**

A cookie is a small text file that is stored on a user's computer. We use session cookies to make it easier for you to use the C&T Website. A session ID cookie expires when you close your browser. We use tracking cookies to better understand how you use the C&T Website, and to enhance your user experience. A tracking cookie remains on your hard drive for an extended period of time. You are free to decline cookies, but by doing so, you may not be able to take full advantage of all feature of the C&T Website. We do not link the information we store in cookies to any personally identifiable information you submit while using the C&T Website.

### **California Do Not Track Notice**

We do not track our users over time and across third party websites, and therefore the C&T Website does not respond to Do Not Track signals sent by your browser or mobile application. We do not authorize the collection by third parties of personally identifiable information from C&T Website users.

### **Information Use and Disclosure**

We use the personal information we have collected for the following purposes:

- To provide you with access to the C&T Website and for related customer service and account management purposes.
- To provide you with information about new features, products, sales and events (see "Notifications and Opt-Out" below).
- To understand how you use the C&T Website and its content, including associating you with the different devices you may use to access the C&T Website, for analytics and product development purposes, and to personalize offers that we may make to you.

- To manage our everyday business needs, such as account management, contract management, business continuity and disaster recovery, security and fraud prevention, corporate governance, reporting and legal compliance.

### **Notifications and Opt-Out**

You may choose to sign up to receive emails from us about new products, sales, and events. Out of respect for your privacy, if you no longer wish to receive these notifications, you may opt-out of receiving them as instructed in each email.

Be advised, however, that you may not opt-out of receiving email notifications from us related to technical support or customer service requests, or changes to the C&T Website Terms of Use or Privacy Policy.

### **Disclosure**

We understand how highly our users value the privacy and security of their personally identifiable information. We will disclose information collected from and about you to the following entities for the following purposes: (1) to our related companies, service providers and suppliers, to enable them to fulfill a product or service request or to perform a business, professional or technical support function for us; (2) as necessary if we believe that there has been a violation of our Terms of Use or of our rights or the rights of any third party; and (3) to respond to judicial process and provide information to law enforcement agencies or in connection with an investigation on matters related to public safety, as permitted by law, or otherwise as required by law.

We may also share with third parties aggregated information about use of the C&T Website. This data does not personally identify you or provide specific information about individual usage.

### **Business Transitions**

In the event Cheng & Tsui goes through a business transition, such as a merger, acquisition by another company, or sale of all or a portion of its assets, any personally identifiable information we have on record will likely be among the assets transferred. The transferred personally identifiable information will remain subject to the provisions of this Privacy Policy or any subsequent updated versions.

### **Links To Third Party Sites**

The C&T Website may contain links to third party websites. These sites may have their own terms of use and privacy policies which do not apply to Cheng & Tsui or the C&T Website.

**Information Security**

We employ encryption and other security measures to protect the loss, misuse, and alteration of the information under our control. We take commercially reasonable steps to protect this information and the transmission of such information. However, please be advised that while we make every effort to ensure the integrity and security of our network and systems, we cannot guarantee that our security measures will prevent unauthorized access from occurring. Please take steps to maintain the security of your account information.



CHENG & TSUI

## TERMS OF USE

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS.

Welcome to Cheng & Tsui (“Cheng & Tsui”, “we”, “us”). By indicating your acceptance of the following terms of use agreement (“Terms”), you (or your parent or legal guardian on your behalf if you are a minor) confirm that you have read, understood, and agree to be bound by and comply with the Terms in their entirety. Accordingly, you should review the Terms thoroughly before using or registering with the Cheng & Tsui Website (the “C&T Website”).

If you, or your parent or legal guardian, do not agree with any part of the Terms, then you may not use or access the C&T Website. Cheng & Tsui does not knowingly offer services through the C&T Website to anyone under the age of 13 years. If you are under 13 years of age, you may use the C&T Website only with the consent or involvement of a parent or guardian.

We may revise and update these Terms from time to time. If you are a registered user, we may attempt to inform you of any material changes by notification to the email address you have provided as part of your registration information. Otherwise, you may view the most recent Terms within the C&T Website and on the Cheng & Tsui website. Your continued use of the C&T Website after a revised version of the Terms is posted will be considered your acceptance of that revision.

## **License and Conditions of Use**

Conditioned on your compliance with these Terms, we grant to you a personal, revocable, limited, non-exclusive, non-transferable license to use the C&T Website. We reserve all rights of ownership in and to the C&T Website not expressly granted to you.

The C&T Website and its content, including but not limited to any and all text, graphics, images, photographs, audio, video, and computer code (collectively the “Website Content”), and all copyrights therein, are owned by Cheng & Tsui, and may be protected by copyright, trademark, patent, trade secret, and/or other laws. Cheng & Tsui owns and retain all rights, including the worldwide copyright, in the Website Content solely and exclusively, for the duration of the rights in each country, in all languages, and throughout the universe. Without limiting the foregoing, certain Website Content may be used by Cheng & Tsui pursuant to licenses from third-party suppliers and contributors. The copyright in such third-party content remains with the owners thereof. All rights not expressly granted herein are fully reserved.

You may not use the Website Content in any way whatsoever except as in compliance with these Terms. You may not modify, rent, lease, loan, sell, distribute, redistribute, or create derivatives works based on the Website Content. You may not alter or delete any proprietary notices from Website Content.

## **Purchases**

We may make products available for purchase through the C&T Website. To purchase any products through the C&T Website, you must be at least the applicable age of majority in your jurisdiction of residence.

Methods of Payment, Credit Card Terms and Taxes. All payments must be made by one of the payment methods specified within the C&T Website. You hereby represent and warrant that you will not use any credit card or other form of payment unless you have all necessary legal authorization to do so. You agree to pay all fees and charges incurred in connection with your purchases (including any applicable taxes).

Order Acceptance. Subject to applicable law, we reserve the right at any time after receipt of your order to accept or decline your order for any reason. We may require additional verifications or information before accepting any order. Notwithstanding the foregoing, you agree that, if we cancel all or a portion of your order or if we provide you less than the quantity you ordered, your sole and exclusive remedy is either that (i) we will issue a credit in the amount charged for the cancelled portion or the quantity not provided (if you have already been charged for the order), or (ii) we will not charge you for the cancelled portion of the order or the quantity not provided.

Pricing and Availability. The purchase of products through the C&T Website is subject to availability. PRODUCTS AND SERVICES DISPLAYED ON THE C&T WEBSITE MAY NOT BE AVAILABLE AT ALL TIMES AND MAY BE SUBSTITUTED OR DISCONTINUED AT ANY TIME. WE RESERVE THE RIGHT, AT ANY TIME, TO CHANGE PRICES AND BILLING METHODS FOR PRODUCTS EFFECTIVE IMMEDIATELY UPON POSTING ON THE SERVICE OR BY EMAIL NOTICE TO YOU.

### **User-Submitted Content**

Restrictions



The C&T Website may allow users to upload and/or post content. You shall not upload or post on the C&T Website any content (including without limitation, text, images, video, graphics, music and sound) that you do not have the right to upload or post, or content that (i) you know to be false, misleading or inaccurate, (ii) is libelous, defamatory, obscene, threatening, invasive of privacy, harmful to minors in any way, abusive, illegal or harassing, (iii) contains expressions of hatred, bigotry, racism, ethnic prejudice, vulgarity, profanity or is sexually explicit, lewd, obscene or pornographic, or is otherwise objectionable, or (iv) that would constitute or encourage a criminal offense, violate the rights of any party or violate any law or encourage or advocate any violent act or behavior or constitute a threat to personal or public safety.

Uploading or posting any such content may result in the immediate termination of your access to the C&T Website and, if appropriate, notification to law enforcement officials. You, and not Cheng & Tsui, are solely and entirely responsible for the content you upload or post to the C&T Website.

You shall not upload to, distribute through or otherwise publish through the C&T Website any content that contains viruses or any other computer code, corrupt files or programs designed to interrupt, destroy or limit the functionality of the C&T Website or disrupt any software, hardware, telecommunications, networks, servers or other equipment. Uploading, distributing or publishing such content may result in immediate termination of your access to the C&T Website.

We have no obligation to monitor or screen content posted or uploaded by you to the C&T Website. We do, however, reserve the right to review such content and remove, edit, or refuse to post it as we in our sole discretion see

fit. We have no liability or responsibility for the storage, modification or deletion of any information or content that you upload or post to the C&T Website.

## Ownership

Except as expressly provided in these Terms of Use or as expressly authorized in writing by you, you retain all rights, title and interest in and to content uploaded or posted to the C&T Website ("Your Content"). By submitting content to the C&T Website, you (i) acknowledge and agree that Your Content is non-confidential, and (ii) grant to Cheng & Tsui a royalty-free, perpetual, irrevocable, non-exclusive, worldwide right and license to use, copy, reproduce, modify, adapt, publish, translate, perform, display, make derivative works of and distribute Your Content (in whole or in part) on the C&T Website. You authorize us to publicly share Your Content and/or to identify you with Your Content.

You shall not upload, post or otherwise make available on the C&T Website any content protected by copyright, trademark or other proprietary right without the express permission of the owner of the copyright, trademark or other proprietary right. You shall be solely liable for any damage resulting from any claims of infringement of copyrights or other proprietary rights, any claims by third parties regarding Cheng & Tsui's exercise of the foregoing license, and any other harm resulting from your submission of content or our use or posting of such content.

## Disclaimers

You expressly agree that use of the C&T Website is at your sole risk. Cheng & Tsui shall not be liable for any loss, liability, cost or damage arising either directly or indirectly from your access to or use of (or inability to access or use) the C&T Website, including, but not limited to, any loss of use, system damage, impairment or interruption, lost data, personal injury or any other pecuniary or financial loss, whether in an action of contract, negligence, equity or other legal theory. It is solely your responsibility to evaluate the accuracy, completeness and usefulness of all information, services and other content provided on the C&T Website.

#### No Warranties

TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, CHENG & TSUI PROVIDES THE C&T WEBSITE "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. CHENG & TSUI MAKES ABSOLUTELY NO WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED. TO THE FULLEST EXTENT POSSIBLE UNDER APPLICABLE LAWS, CHENG & TSUI DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR OTHER VIOLATIONS OF RIGHTS.

CHENG & TSUI DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE, VALIDITY, ACCURACY, OR RELIABILITY OF, OR THE RESULTS OF THE USE OF, OR OTHERWISE RESPECTING, THE C&T WEBSITE. YOUR USE OF THE C&T WEBSITE IS SOLELY AT YOUR OWN RISK.

Cheng & Tsui does not warrant that the C&T Website will be uninterrupted or error free; nor does Cheng & Tsui make any warranty as to the results that may be obtained from use of the C&T Website, or as to the accuracy or reliability of any information, service, or materials provided through the C&T Website.

#### Limitation of Liability

NEITHER CHENG & TSUI NOR ANY OTHER INDEMNIFIED PARTY WILL BE LIABLE TO YOU FOR (I) LOST INCOME, LOST PROFITS, LOSS OF DATA, ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, OR CLAIMS OF THIRD PARTIES, (II) ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF OR RELIANCE UPON THE COMPLETENESS OR ACCURACY OF ANY INFORMATION MADE AVAILABLE VIA THE C&T WEBSITE. THESE LIMITATIONS OF LIABILITY FOR SUCH LOSSES WILL APPLY EVEN IF WE HAVE BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THEIR POSSIBILITY.

#### Indemnification

You agree to indemnify, defend (at Cheng & Tsui's option) and hold Cheng & Tsui and its affiliates, officers, directors, representatives, agents, partners, employees and third party content suppliers and contributors (collectively, "Indemnified Parties") harmless from and against any and all claims, liabilities, losses, and expenses (including damage awards, settlement amounts, and reasonable legal fees), brought against any Indemnified Person, arising out of or related to Your Content, your use of the C&T Website other than as

expressly permitted under these Terms of Use, your violation of these Terms or any third party's rights. Any such indemnification shall be conditioned on the Indemnified Party (a) notifying you in writing of any such claim, liability, loss, expense or threat thereof, (b) cooperating with you in the defense or settlement thereof, and (c) allowing you to control such defense or settlement. The Indemnified Party shall be entitled to participate in such defense at its own cost and expense.

#### Arbitration

THE FOLLOWING TERMS TO WHICH YOU ARE CONSENTING CONSIST OF A BINDING ARBITRATION PROVISION AND A CLASS-ACTION AND JURY TRIAL WAIVER.

To the fullest extent permitted by law, you agree that if a dispute arises between you and one or more of the Indemnified Parties relating in any way to the C&T Website or your use thereof, including common law or statutory claims, BOTH YOU AND THE INDEMNIFIED PARTIES SHALL SUBMIT TO BINDING ARBITRATION BEFORE THE AMERICAN ARBITRATION ASSOCIATION. ANY ARBITRATION COMMENCED BETWEEN YOU AND THE INDEMNIFIED PARTIES MUST BE ARBITRATED IN BOSTON, MASSACHUSETTS. ARBITRATION MUST BE ON AN INDIVIDUAL BASIS. THIS MEANS NEITHER YOU NOR THE INDEMNIFIED PARTIES MAY JOIN CLAIMS IN ARBITRATION WITH OR AGAINST OTHER USERS, OR LITIGATE IN COURT OR ARBITRATE ANY CLAIMS AS A REPRESENTATIVE OR MEMBER OF A CLASS. YOU UNDERSTAND THAT BY AGREEING TO ARBITRATION YOU ARE WAIVING CERTAIN LEGAL RIGHTS, INCLUDING THE RIGHT TO SUE IN COURT, THE RIGHT TO

HAVE THE DISPUTE DECIDED BY A JUDGE OR JURY, AND THE RIGHT TO BRING, OR BE PART OF, A CLASS ACTION CASE. The foregoing shall not apply to suits to enjoin infringement or other misuse of intellectual property rights, and you or the Indemnified Parties may bring suit in court to enjoin infringement or other misuse of intellectual property rights. Any such suit shall be adjudicated by a state or federal court located in Boston, Massachusetts, and you hereby consent to jurisdiction in such courts for such suits.

### **General Conditions**

These Terms constitute the entire agreement between you and us, and governs your use of the C&T Website superseding any prior agreements (including, but not limited to, any prior versions of these Terms). These Terms shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and permitted assigns.

No waiver of any provision of these Terms or any breach hereunder shall be deemed a waiver of any other provision or subsequent breach, nor shall any such waiver constitute a continuing waiver. If any part of these Terms, or the application thereof to any person or circumstance, is for any reason held invalid or unenforceable, it shall be deemed severable and the validity of the remainder of these Terms or the applications of such provision to other persons or circumstances shall not be affected thereby.