



**WATAUGA COUNTY
BOARD OF EDUCATION**

Margaret E. Gragg Education Center
175 Pioneer Trail Boone, NC 28607
(828) 264-7190

WATAUGA COUNTY BOARD OF EDUCATION MEETING AGENDA
September 17, 2024

| | | |
|-----------|---|--------------------------------------|
| 4:45 p.m. | 1. CALL TO ORDER | Board Chair |
| 4:48 p.m. | 2. CLOSED SESSION A. Approval of the Minutes for 8/6/2024 and 8/13/2024 B. Reportable Offenses – N.C.G.S.115C-288(g) C. Student Records - N.C.G.S.143-318.11(a)(1) D. Personnel – N.C.G.S.143-318.11(a)(6) E. Attorney-Client - N.C.G.S. 143-318.11(a)(3) | Board Chair |
| 6:00 p.m. | 3. OPEN SESSION CALL TO ORDER/ WELCOME/MOMENT OF SILENCE | Board Chair |
| 6:03 p.m. | 4. DISCUSSION AND ADJUSTMENT OF AGENDA | Board Chair |
| 6:05 p.m. | 5. SUPERINTENDENT’S REPORT | Dr. Leslie Alexander |
| 6:10 p.m. | 6. VALLE CRUCIS SCHOOL UPDATE | Dr. Leslie Alexander |
| 6:13 p.m. | 7. STUDENTS’ REPORT | Ms. Athena Elliott Ms. Mia Llibre |
| 6:18 p.m. | 8. SPECIAL RECOGNITION | Dr. Leslie Alexander |
| 6:25 p.m. | 9. PUBLIC COMMENT | Board Chair |

| | | |
|------------------|---|----------------------|
| 6:35 p.m. | 10. WCS DATA & ACCOUNTABILITY UPDATE | Dr. Wayne Eberle |
| 6:50 p.m. | 11. CONSENT AGENDA <ul style="list-style-type: none"> A. Approval of the Minutes for 8/6/2024 and 8/13/2024 B. Declaration of Surplus C. Approval to Purchase Repeaters D. 2024-25 Budget Resolution E. 2024-25 Lottery Applications F. Personnel Report | Dr. Leslie Alexander |
| 6:55 p.m. | 12. INTRODUCTION OF NEW DISTRICT LEADER | Dr. Leslie Alexander |
| 7:00 p.m. | 13. POLICIES: SUBSTANTIVE FOR FIRST READ <ul style="list-style-type: none"> • 1725/4035/7236: Interim Title IX Sex Discrimination Prohibited Conduct and Reporting Process • 1726/4036/7237: Interim Title IX Sex Discrimination Grievance Process | Dr. Wayne Eberle |
| 7:15 p.m. | 14. BOARD OPERATIONS <ul style="list-style-type: none"> ➤ Date for November BOE Meeting <i>(due to the regularly scheduled meeting date being on Veterans Day)</i> | Board Chair |
| 7:25 p.m. | 15. BOARD COMMENTS | Board Chair |
| 7:30 p.m. | 16. ADJOURNMENT | Board Chair |
| | 17. MISCELLANEOUS <ul style="list-style-type: none"> ❖ Calendar Committee Meeting Minutes from 9/5/2024) | |



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WATAUGA COUNTY BOARD OF EDUCATION MEETING

DATE: September 17, 2024

TIME: 6:00 p.m.

PLACE: Margaret E. Gragg Education Center

PRESENT:

- Gary Childers, Steve Combs, Marshall Ashcraft, Jason Cornett, *BOE Members*
- Dr. Leslie Alexander, *Superintendent*

CALL TO ORDER

Board Chair Dr. Gary Childers called the meeting to order at 6:00 p.m.

WELCOME/MOMENT OF SILENCE

Dr. Childers welcomed those attending the meeting and requested to observe a moment of silence.

He congratulated Watauga County Schools on a good start to the school year. He recognized BOE candidate Alison Idol who was in attendance, as well as candidate and current BOE member Marshall Ashcraft. {*BOE candidate Charlotte Lloyd came in afterwards.*} Dr. Childers acknowledged new Student Board Representative Athena Elliott, and he shared that Student Board Representative Mia Llibre did a wonderful job speaking to all WCS faculty/staff at this year's "Convocation."

DISCUSSION AND ADJUSTMENT OF AGENDA

There was no adjustment to the agenda.

SUPERINTENDENT'S REPORT

- Dr. Leslie Alexander extended a warm welcome to Athena Elliott in her new role as Junior Student Board Representative, and she expressed appreciation to Mia Llibre who will continue her service as the Senior Student Board Representative this year.

- She thanked all WCS employees for working so hard to help students have a smooth transition back to school. Fall Festivals will take place between September 27th-November 1st at the K-8 schools.
- September 18th will be a Professional Development Day for faculty/staff.
- Dr. Alexander stated that there were great results from the I-Ready Math implementation last year, which is part of the reason Watauga County was able to remain the 4th top-performing district in the state. WCS has a new Reading curriculum: CKLA (grades K-5) and Amplify (grades 6-8).
- Recognition Dates:
 - September 9-13: National Arts in Education Week
 - September 15-October 15: Hispanic Heritage Month
 - September 17: IT Professionals Day
 - September 27: Teacher Assistants' Day

VALLE CRUCIS SCHOOL UPDATE

- ➔ Area A: Cafeteria/Kitchen; Gym
- ➔ Area B: Administrative Offices; Band
- ➔ Area C: Classrooms Really great progress

Rok-On has been completed in all areas. Storefronts and curtain walls are almost complete in Areas B and C, and the rough-ins for these areas are in the final stages. Metal roofing and TPO roofing are not complete. Drywall is completed in Area B and has been started in area A. Temporary permanent power should be to the building and energized by the second week of September. Wood siding and natural adhered stone are due to be completed in October.

The County Manager and architects do not feel like the December 22, 2024 deadline will be met. They will order furniture to be delivered at the beginning of February to avoid storage costs.

STUDENTS' REPORT

- Watauga's Student Council and other student organizations are preparing for this year's "*Mamma Mia*"-themed Homecoming Dance, which is September 21st. Each day during the week prior to Homecoming, Watauga will have a different theme and activity (i.e. faculty kickball game, Powderpuff football, etc.). September 20th will include a pep rally and pre-game tailgate.
- Watauga High School hosted a College Fair for all students on September 16th which included over 40 colleges/universities in and around North Carolina.
- Seniors will have the opportunity to learn more about Auburn University on September 20th during FLEX. On September 23rd, four colleges/universities from the STARS College Network will hold a 45-minute information session at the Leon Levine Hall of Health Sciences. Following this session, attendees can explore a College Fair with participating institutions from across the country.
- The Senior Parent Night will be on September 24th.
- Governor's School applications for 11th graders are now open and will close on November 20th. Any students or parents with questions can reach out to W.H.S. Counselor Molly Welch.
- The monthly spotlight is the Women's Tennis team due to their tremendous success so far this season. Ranked first in the conference, they have a 6-0 record and have been one of Watauga's most impressive teams for several years.

SPECIAL RECOGNITION: Servant's Heart Award

Dr. Leslie Alexander made the following remarks: "When I began my tenure as Superintendent of Watauga County, one of the first events I attended was the *Back 2 School Festival*. What I witnessed cannot be captured in words, but it was one of the most powerful displays of 'community' and 'service' that I had (or have) ever witnessed. I really cannot begin to comprehend all that goes into coordinating and orchestrating such an undertaking. This year, close to 2,000 students were served ~ which enabled those children to be able to start the school year more confident and prepared to learn and succeed."

The Servant's Heart Award is the highest honor presented by the Superintendent and Watauga County Board of Education, and it is awarded in recognition of the highest level of service. This award was presented to the *Back to School Festival* Steering Committee. Each of these individuals truly have the heart of a servant with their compassion, tireless work, and dedication.

"Back to School Festival" Steering Committee:

- ★ Kendra Sink: Festival Coordinator
- ★ Tara Stollenmaier: 'Day of' Logistics Chair
- ★ Claire Jensen: Supply Committee Co-Chair
- ★ Sandra Ruppert: Supply Committee Co-Chair
- ★ Suzy Greene: Volunteer Coordinator
- ★ Anna Floyd: Publicity Coordinator
- ★ Tricia Hall: Sponsorship Coordinator
- ★ Michelle Redmon: Haircut Coordinator
- ★ Brian Crutchfield: Board Member

Dr. Alexander shared that Brian Crutchfield's late wife Kathy Crutchfield was a champion in making sure the *Back to School Festival* is the success that it is today. She was one of the founders, and she continuously gave of her time and talents to make sure that every child had what they needed to start school.

Festival Coordinator Kendra Sink thanked the partnership with and generosity of the churches, businesses, civic organizations, and Watauga High School community. Dr. Childers thanked the committee and community for everything they do that makes this event so impactful.

PUBLIC COMMENT

There were no citizens who made public comments.

WCS DATA AND ACCOUNTABILITY UPDATE

Dr. Wayne Eberle shared proficiency comparison data from:

- EOC: Pre-COVID Fall 2019 to Fall 2023
- EOC: Pre-COVID Spring 2020 to Spring 2024
- EOG ELA, EOG Math, and EOG Science: Pre-COVID Spring 2019 to Spring 2024

He showed 2024 EOG data, 2024 mClass data, and/or 2024 EOC/ACT WorkKeys data that indicated which grade levels at each of the schools will need general, targeted, or intensive priority. Dr. Eberle

highlighted school performance grades and school growth information. The WCS cohort graduation rate is 90.3%.

Among the 115 LEAs in North Carolina, Watauga County Schools ranked:

- 14th in EOG Math Grade 8
- 10th in EOG Grade 3 and EOG Reading Grade 5
- 9th in Science Grade 8
- 7th in EOG Grade 8
- 6th in English II (up from 15th last year)
- 5th in Biology I, EOG Math Grades 3-8, EOG Math Grade 4, EOG Math Grade 7, EOG Reading Grade 6
- 4th in All EOG/ EOC (state ranking), All EOG, Math I, EOG Grade 4, EOG Reading Grade 3, EOG Reading Grade 4
- 3rd in All EOC, Math III, EOG Grade 6, EOG Grade 7, EOG Math Grade 6, EOG Reading Grades 3-8
- 2nd in EOG Reading Grade 7, EOG Reading Grade 8

WCS performed in the top 10 in twenty-four areas, and in the top 5 in nineteen areas.

Dr. Childers praised the teachers and said that he is seeing Dr. Alexander's strategic influence with the school system's approach.

CONSENT AGENDA

- A. Approval of the Minutes for 8/6/2024 and 8/13/2024
- B. Declaration of Surplus
- C. Approval to Purchase Repeaters
- D. 2024-25 Budget Resolution
- E. 2024-25 Lottery Applications
- F. Personnel Report

Steve Combs made a motion to approve the Consent Agenda. Jason Cornett seconded the motion, and it was unanimously approved.

INTRODUCTION OF NEW DISTRICT LEADER

Dr. Alexander introduced new Chief Financial Officer Joseph "Joe" Nash who will begin his new role in October, and Mr. Nash spoke briefly expressing his appreciation in being hired for this position. Joe Nash is currently a CPA who has worked as a senior tax accountant for the past fourteen years, and he also serves as the Treasurer for the Boone Area Chamber of Commerce. He and his wife Lora Leigh have three children in Watauga County Schools.

POLICIES: SUBSTANTIVE FOR FIRST READ

- 1725/4035/7236: Interim Title IX Sex Discrimination Prohibited Conduct and Reporting Process
- 1726/4036/7237: Interim Title IX Sex Discrimination Grievance Process

Jason Cornett made a motion to adopt the interim policies on first read. Marshall Ashcraft seconded, and it was approved by all Board members.

BOARD OPERATIONS

- Jay Fenwick made a motion to move the November BOE meeting date to Tuesday, November 12th. Steve Combs seconded, and all Board members approved.
- Dr. Alexander and Dr. Childers attended the NCSBA LEAD Training which was very informative.
- All Boards can now have four primary voting delegates for the Delegate Assembly of NCSBA. This will be discussed and decided at the October BOE meeting.

BOARD COMMENTS

There were no additional Board comments.

ADJOURNMENT

Steve Combs made a motion to adjourn, Jason Cornett seconded, and it was unanimously approved. The meeting adjourned at 7:36 p.m.

Dr. Gary L. Childers, *Board of Education Chair*

Dr. Leslie Alexander, *Superintendent*

WATAUGA COUNTY FIELD TRIP REQUEST FORM

This request is for a: ___ day trip ___ out of state day trip ___ overnight trip ☒ overnight & out of state trip

Day trips must be submitted to the principal 15 days before the trip. Overnight trip requests must be submitted to the superintendent by the first day of each month. Overnight field trips require the prior approval of the principal, transportation director, superintendent, and Board of Education. All trips utilizing rental or charter vehicles require the prior approval of the transportation director. No employee will transport students in a personal vehicle and no employee or volunteer driver will transport students in a 12-15 passenger van. No more than five students will be transported by a school system employee or volunteer in any one vehicle other than a school bus or activity bus.

Sponsoring teacher: (Print) Erik Mortensen School: WHS

Cell phone number: 919-723-4803 Grade(s): 9-12 Number of students: 10-15

Departure time/date: Sept 21st 6am Return time/date: Sept. 25th 4pm

Educational purpose:

Trip destination including city, state, and all places to be visited: (attach detailed itinerary as needed)

Washington, DC - See attached itinerary from last year

Purpose of trip and how it relates to the curriculum: Officers of Skills USA will attend the Washington Leadership Training Institute to learn leadership skills and attend various trainings.

Supervision and Safety:

Names of all school staff chaperones: Erik Mortensen, Haylee Bare

Names of all non-school chaperones: _____

All chaperones have a background check completed: yes Sponsoring teacher initials: EM
Are all site(s) accessible to students with disabilities? ☒ yes ☐ no How will students with disabilities be
accommodated for site access and transportation? _____

Sponsoring Teacher Initials _____ (If applicable) A safety/supervision plan for high risk and/or water activities has
been shared with the parents. Please attach a copy of the plan to this form if applicable.

Transportation plan:

Mode of transportation: _____ Yellow bus with wheelchair lift _____ Yellow bus without wheelchair lift
_____ Activity bus with wheelchair lift ☒ Activity bus without wheelchair lift _____ Rental car/mini-van
_____ Charter bus Other (Please explain) _____

Name of charter bus company (if checked above) _____

(If applicable, bus request form must be attached)

Driver/s: Haylee Bare Round trip mileage: 800 # of buses needed: 1
Total cost per student \$ _____ Source of funds: CTE

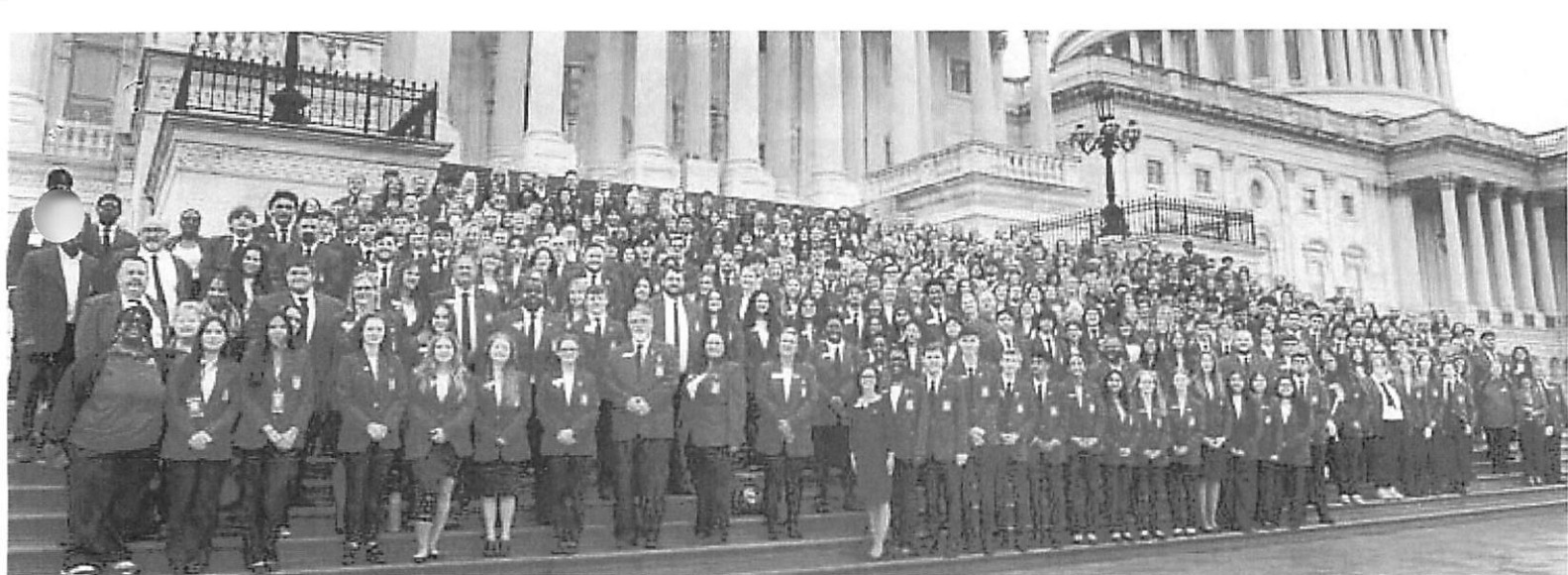
The sponsoring teacher has reviewed Board policies 3320, 3320-R, and 6315: Teacher initials: EM

Approval/Signatures:

Sponsoring teacher signature: _____ Date: 7/22/24
Principal approval: _____ Date: 8/2/24

Required signatures if applicable:

Transportation Director approval: _____ Date: 8/2/24
Superintendent approval: _____ Date: 8/6/24
Board of Education approval: _____ Date: ____/____/____



SEPT. 21-25, 2024
WASHINGTON, D.C.

OPEN TO ALL STUDENTS

STATE DIRECTOR CONFERENCE GUIDE



TENTATIVE SCHEDULE

This schedule is tentative and could change at any time. All attempts will be made to make final scheduling decisions by Sept. 1. There are several factors that may affect a scheduling decision, including the availability of monuments and congressional offices, safety measures and permitting.

SATURDAY, SEPT. 21, 2024

Attire: SkillsUSA business casual

2 p.m. - 5 p.m. Conference Registration
Plaza Ballroom Foyer

5:15 p.m. Doors open for Opening General Session
Plaza Ballroom

5:30 p.m. Opening Dinner and General Session
Plaza Ballroom

8:30 p.m. Students: Huddle Group Welcome
Huddle Group Rooms

8:45 p.m. Advisors and State Staff: Orientation Meeting
Terrace East & West Room

11 p.m. Curfew

SUNDAY, SEPT. 22, 2024

Attire: SkillsUSA business casual and casual for twilight tour

7:30 a.m.-
4 p.m. SkillsUSA Store and Educational Resources
Plaza Ballroom Foyer

7:45 a.m. Breakfast
Plaza Ballroom

8:30 a.m. General Session
Plaza Ballroom

9:30 a.m. Student Training
Huddle Group Rooms

9:30 a.m. Advisor and State Director Training
Terrace East & West Room

12 p.m. Lunch and Advocacy Panel Discussion
Plaza Ballroom

1:30 p.m. Break

1:45 p.m. Advisor Training
Terrace East & West Room

1:45 p.m. Student Training
Huddle Group Rooms

5 p.m. Dinner

6:30 p.m. Buses depart for Twilight Tour (Casual)
Front of Hotel

10 p.m. Buses depart for hotel
From Twilight Tour

11 p.m. Curfew

MONDAY, SEPT. 24, 2024

Attire: SkillsUSA conference T-Shirt

8 a.m. Breakfast
Plaza Ballroom

8:45 a.m. General Session
Plaza Ballroom

10:30 a.m. Buses depart for downtown D.C.
Front of Hotel
States on their own for touring, lunch, and dinner

3 p.m. Buses begin departing for hotel (on rotation)
Air & Space Museum

7 p.m. Last bus departs for hotel
Air & Space Museum

7:30 p.m. Statesman Interview Process
Lower Level of Hotel

11 p.m. Curfew

TUESDAY, SEPT. 25, 2024

Attire: SkillsUSA official attire

8 a.m. Buses depart for Capitol Hill
Front of Hotel (Breakfast served on bus)

8:45 a.m. Group Photo on Capitol Hill
Front of Capitol

9 a.m. Congressional Visits
Lunch on your own
Capitol Hill



TENTATIVE SCHEDULE (CONT.)

2 p.m. Buses depart for Arlington National Cemetery
Front of Capital Hill

3:15 p.m. Wreath Laying at the Tomb of the Unknowns
Arlington National Cemetery

4:20 p.m. Buses depart for hotel
Front of Hotel

6:30 p.m. Celebration Dinner
Plaza Ballroom

11 p.m. Curfew
WEDNESDAY, SEPT. 25, 2024
Attire: appropriate casual

Travel home safely!



The 2024 WLTJ group photo will be taken at the U.S. Capitol on Tuesday, September 25



HOTEL INFORMATION

HILTON ALEXANDRIA MARK CENTER | 5000 Seminary Road, Alexandria, VA 22311

RESERVATION DEADLINE

Hotel reservation deadline is Aug. 25.

HOTEL ROOM RATES

Rooms are subject to availability in the SkillsUSA WLTJ block. Once the confirmed conference room block is full, room rates may increase.

\$184/Night*

*Hotel room rates are per room per night, plus applicable tax, which is currently 15.5%, and an occupancy tax of \$1.25. Tax subject to change.

RESERVATION PROCESS

[Click Here to Make Reservations](#)

The passkey site will allow up to 20 rooms reservations at a time. Reservation can also be made using the rooming list template found at bit.ly/wltj21rooming. Complete and return to the contact as directed in the workbook.

The cutoff date reserve room within the block is Aug. 25.

PAYMENT

If paying by credit card, please use the passkey site or contact the hotel directly using the contact below. If paying by check, guest pre-payment by check must be received by the hotel 10 business days prior to arrival. Any reservations without receipt of payment will be canceled.

For further assistance with reservations or payment, please contact Indira Tamang at itamang@hiltonalexandriamc.com.

HOTEL SHUTTLE

Limited complimentary transportation will be provided between Reagan National Airport (DCA) and the Hilton Alexandria Mark Center on Saturday, Sept. 21 and Wednesday, Sept. 25. Seats will be assigned based on a first come first serve basis. Please complete the shuttle request form below. **NOTE: Shuttle service is not available outside of these hours. If your flight arrives late, you will need to use alternate transportation.**

Saturday, Sept. 21

Rotating Service: 11 a.m. – 4 p.m.

Wednesday, Sept. 25

Rotating Service: 8:30 a.m. – 2:30 p.m.

[Shuttle Request Form](#)

Declaration of Surplus Items - OCTOBER

DAMAGED BY
HURRICANE

Date Approved: _____

Bethel

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> | <u>Usable</u> | <u>Unusable</u> |
|----------------|----------------------|--------------------|----------------------|----------------------|
| NONE | 1 | EASEL- DRY ERASE | | 1 |
| | <input type="text"/> | | <input type="text"/> | <input type="text"/> |
| | 1 | | 0 | 1 |

Blowing Rock

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> | <u>Usable</u> | <u>Unusable</u> |
|----------------|----------------------|--------------------|----------------------|----------------------|
| | <input type="text"/> | | <input type="text"/> | <input type="text"/> |
| | 0 | | 0 | 0 |

Cove Creek

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> | <u>Usable</u> | <u>Unusable</u> |
|----------------|----------------------|--------------------|----------------------|----------------------|
| | <input type="text"/> | | <input type="text"/> | <input type="text"/> |
| | 0 | | 0 | 0 |

Green Valley

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> | <u>Usable</u> | <u>Unusable</u> |
|----------------|----------------------|--------------------|----------------------|----------------------|
| 28486 | 1 | PROJECTOR- EPSON | | 1 |
| 40948 | 1 | IFP- 7550 | | 1 |
| | <input type="text"/> | | <input type="text"/> | <input type="text"/> |
| | 2 | | 0 | 2 |

Hardin Park

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> | <u>Usable</u> | <u>Unusable</u> |
|----------------|-----------------|--------------------|---------------|-----------------|
| 25179 | 1 | PROJECTOR | | 1 |
| 500220 | 1 | SMARTBOARD | | 1 |
| 35463 | 1 | CHROMEBOOK 100e | | 1 |
| 35471 | 1 | CHROMEBOOK 100e | | 1 |
| 35478 | 1 | CHROMEBOOK 100e | | 1 |

5

0

5

Mabel

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> |
|----------------|-----------------|--------------------|
|----------------|-----------------|--------------------|

0

| <u>Usable</u> | <u>Unusable</u> |
|---------------|-----------------|
|---------------|-----------------|

0

0

Parkway

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> |
|----------------|-----------------|--------------------|
|----------------|-----------------|--------------------|

| | | |
|--------|---|------------------|
| 700087 | 1 | DOC CAMERA- ELMO |
| 700102 | 1 | DOC CAMERA- ELMO |
| 700089 | 1 | DOC CAMERA- ELMO |
| 700085 | 1 | DOC CAMERA- ELMO |
| 28778 | 1 | PROJECTOR- 575 |

| <u>Usable</u> | <u>Unusable</u> |
|---------------|-----------------|
|---------------|-----------------|

| |
|---|
| 1 |
| 1 |
| 1 |
| 1 |
| 1 |

5

0

5

Valle Crucis

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> |
|----------------|-----------------|--------------------|
|----------------|-----------------|--------------------|

0

| <u>Usable</u> | <u>Unusable</u> |
|---------------|-----------------|
|---------------|-----------------|

0

0

Watauga High School

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> |
|----------------|-----------------|--------------------|
|----------------|-----------------|--------------------|

| | | |
|--------|---|-------------------------|
| 900480 | 1 | PRINTER- LASERJET 3600n |
| 29807 | 1 | DESKTOP- OPTIPLEX 7900 |

| <u>Usable</u> | <u>Unusable</u> |
|---------------|-----------------|
|---------------|-----------------|

| |
|---|
| 1 |
| 1 |

2

0

2

Central Office

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> |
|----------------|-----------------|--------------------|
|----------------|-----------------|--------------------|

| <u>Usable</u> | <u>Unusable</u> |
|---------------|-----------------|
|---------------|-----------------|

0

0 0

Technology Department

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> |
|----------------|----------------------|------------------------|
| 34127 | 1 | CHROMEBOOK- 100e G2 |
| 35563 | 1 | CHROMEBOOK- 100e G2 |
| 34167 | 1 | CHROMEBOOK- 100e G2 |
| 34854 | 1 | ELITEBOOK 1030 |
| 35104 | 1 | ELITEBOOK 1030 |
| 52172 | 1 | CHROMEBOOK- 300e |
| 35455 | 1 | CHROMEBOOK- 100E G2 |
| 52493 | 1 | HP ELITEBOOK 1030 |
| | 324 | WIRELESS ACCESS POINTS |
| | <input type="text"/> | |
| | 332 | |

| <u>Usable</u> | <u>Unusable</u> |
|----------------------|----------------------|
| | 1 |
| | 1 |
| | 1 |
| | 1 |
| | 1 |
| | 1 |
| | 1 |
| | 1 |
| | 1 |
| | 324 |
| <input type="text"/> | <input type="text"/> |
| 324 | 8 |

Transportation Department

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> |
|----------------|----------------------|--------------------|
| | <input type="text"/> | |
| | 0 | |

| <u>Usable</u> | <u>Unusable</u> |
|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> |
| 0 | 0 |

Maintenance Department

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> |
|----------------|----------------------|--------------------|
| | <input type="text"/> | |
| | 0 | |

| <u>Usable</u> | <u>Unusable</u> |
|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> |
| 0 | 0 |

Child Nutrition

| <u>Asset #</u> | <u>Quantity</u> | <u>Description</u> |
|----------------|----------------------|--------------------|
| | <input type="text"/> | |
| | 0 | |

| <u>Usable</u> | <u>Unusable</u> |
|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> |
| 0 | 0 |



**WATAUGA COUNTY
BOARD OF EDUCATION**

Margaret E. Gragg Education Center
175 Pioneer Trail Boone, NC 28607
(828) 264-7190

TO: Dr. Leslie Alexander, Superintendent
Dr. Chris Blanton, Assistant Superintendent
Watauga County Board of Education

FROM: Janet Tanner, Transportation Director

RE: Approval to Purchase New School Bus Radios

I am requesting that the Watauga County Board of Education approve the purchase of updated radios for yellow buses. Currently there are some issues communicating between the schools/transportation department and the school buses while they are transporting students to and from school. To help alleviate this issue, we would like approval to purchase forty-five (45) new Motorola radios, installation and a 5-year support contract for yellow buses.

The purchase of these radios would be paid for by State funding and would not be an additional cost to the county. Mobile Communications is on the state contract therefore, a bid is not required. The quote and lease amount for this purchase is attached

Please let me know if you have any questions or concerns.



Mobile
Communications
America

MOBILE COMMUNICATIONS AMERICA, INC.
4800 REAGAN DR
CHARLOTTE, NC 28206
Phone: 704-597-5220
Fax:

QUOTATION

Page 1

341001277

Bill To:

Watauga County NC Schools
PO Box 1790
Boone, NC 28607

Ship To:

Watauga County NC Schools
175 Pioneer Trail
Boone, NC 28607

Contact:

Contact #:

Contact:

Contact #:

| Date: 08/23/2024 | | Customer #: 108194 | | Terms: NET 30 DAYS | | |
|--|------------------|--|-----|--------------------|-----------|--|
| Qty | Item | Description | U/M | Unit Price | Extended | |
| 45 | AAM28TRN9RA1AN-P | XPR 5550E 450-512M 40W GOB BT/GNSS/WIFI CD Package | EA | 1,514.00 | 68,130.00 | |
| 45 | AAM28TRN9RA1AN | XPR 5550E 450-512M 40W GOB BT/GNSS/WIFI CD | EA | 0.00 | 0.00 | |
| 45 | STDBKT0511AA | STANDARD BRACKET (RLN6469) | EA | 0.00 | 0.00 | |
| 45 | STDBLK0511AA | STANDARD MODEL BOX | EA | 0.00 | 0.00 | |
| 45 | STDCBL0511AA | STANDARD CABLE (HKN4191) | EA | 0.00 | 0.00 | |
| 45 | STDMIC0511AF | STANDARD MICROPHONE (RMN5052) | EA | 0.00 | 0.00 | |
| 45 | STDESS0511AA | 5YR ESSENTIAL REPAIR | EA | 0.00 | 0.00 | |
| 45 | STDSMA0771AH | STANDARD 5 YEAR SMA AND SW FEATURES | EA | 0.00 | 0.00 | |
| 45 | LSVC-NOTE | | EA | 0.00 | 0.00 | |
| Warranties included with the sale of equipment are manufacturer warranties that exclude local services performed by MCA. | | | | | | |
| MCA offers local warranty services that may include first echelon assessment, delivery, processing repairs, archiving code plugs, testing upon factory return, and customer return via shipment with scheduled fees. | | | | | | |
| 45 | BT-PGM | PROGRAMMING | EA | 25.00 | 1,125.00 | |
| 45 | VI-FR-INST1 | VEHICLE INSTALL MOBILE DASH/FRONT MNT | EA | 250.00 | 11,250.00 | |
| 1 | S&H | SHIPPING/HANDLING | EA | 300.00 | 300.00 | |

Accepted By: _____ Date: _____

Please contact customer representative by phone or email with any questions:

Customer Rep: Stori McIntyre

Phone #:

Email: StoriMcIntyre@callmc.com

Subtotal : \$80,805.00

Tax : \$5,454.34

Total Quote : \$86,259.34

Effective August 1, 2018, all credit card payments are subject to a 2% convenience fee

Quote Valid for 30 Days.

All orders are subject to partial shipment and partial invoice

Tax calculations provided are estimates and are subject to change.



Quote For: *Watauga County Schools NC lease with Service Level Agreement*

Date: 08/26/2024

The information below describes the contract's approximate monthly payment and security deposit based upon the contract type and term in months. Any change in the amount financed will change this information. These amounts do not include applicable taxes. Pricing is based off net 30 terms and monthly invoicing.

| <u>Contract Type</u> | <u>Term</u> | <u>Payment</u> | <u>Security Deposit</u> |
|----------------------|-------------|----------------|-------------------------|
| \$1 Buyout | 60 | \$2,039.32 | \$0.00 |

Quote Assumptions:

Subject to Credit Approval
Quote Good Until: 09/25/24

Contract Type Detail:

\$1 Buyout

Customer owns the equipment after all payments are made.

Service Level Agreement

Subscriber Support includes depot repair handling, annual firmware update, and annual preventative maintenance for the XPR5550e mobile radios.

Equipment List

45 XPR5550e Mobiles with programming and installation

Thank you for your interest. Please call if you have any questions regarding this proposal.



MOBILE COMMUNICATIONS AMERICA, INC. TERMS AND CONDITIONS

The following Terms and Conditions ("T&Cs"), together with the terms of the relevant Quote, and any other documents incorporated herein by reference, constitute the sole and entire agreement ("Agreement") between Mobile Communications America, Inc. a Delaware corporation ("MCA") and the Buyer whose name appears on the signature page of the Quote ("Buyer"; MCA and Buyer are referred to collectively as the "Parties" and each, individually, a "Party") with respect to the equipment and/or parts ("Goods") and/or services ("Services"; collectively, the "Work") to be provided by MCA to Buyer in the Quote, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. The quantity, quality and description of the Goods shall be as specified in an applicable Quote and/or any applicable specification agreed to in writing by the Parties. With respect to Services, any Quote is expressly subject to MCA's inspection of the site where the Services will be performed and its suitability for the Services in MCA's sole and absolute discretion.

By accepting a Quote, Goods or Services from MCA, Buyer's consent to this Agreement will be conclusively established regardless of the manner of acceptance. Buyer acknowledges and agrees to this Agreement and no other terms and conditions issued on Buyer's PO or other work/order form are incorporated or will apply unless agreed upon by both Parties in writing and signed by the Parties. This Agreement will prevail over any of Buyer's general terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and does not serve to modify or amend this Agreement. In the event of any conflict between these T&Cs and the Quote, these T&Cs shall govern, unless the Quote expressly states that the terms and conditions of the Quote shall control.

1. **INDEPENDENT CONTRACTORS.** Neither the transactions contemplated by the Agreement or any other document between the Parties are intended to constitute or create a joint venture, pooling arrangement, partnership, or formal business organization of any kind. The Parties shall act as independent contractors at all times and neither Party shall act as an agent for the other, and the employees of one Party shall not be deemed employees of the other Party.
2. **SHORTAGES AND DEFECTS OF GOODS:** Buyer will be deemed to have accepted the Goods unless MCA is notified in writing of the rejection of any unit of the Goods within three (3) days of receipt. Any claim of shortages or defects must be made within three (3) days of delivery to Buyer. Claims must be provided to MCA in writing and must detail for MCA the specific reason(s) for rejection. Buyer shall afford MCA prompt and reasonable opportunity to inspect all Goods against which any claim is made. Buyer shall not return any Goods to MCA without prior authorization. After MCA has reviewed the rejection notice and authorized the return, Buyer will return the rejected Goods to MCA (or MCA's designee) in the same condition as when it was received. All returns must be in the original container and packaging along with all accessories and instructions included must be shipped freight prepaid. Notwithstanding the foregoing, (a) in the event MCA reasonably determines that the basis for rejection relates to a matter covered by a Manufacturer Warranty, MCA shall have no liability under this Section other than to inform Buyer of such determination.
3. **PRICING AND PAYMENT:** Pricing for the Services or the Goods, or the manner or method by which such prices shall be set or finally determined, shall be set forth in the Quote. All quotations reflect U.S. Dollars. Buyer acknowledges that prices may fluctuate due to manufacturer costs, supply chain variances or Force Majeure Events (hereinafter defined). As such, MCA reserves the right to adjust prices accordingly and/or cancel Quotes at any time. MCA will make reasonable effort to provide Buyer timely notice of such changes. The right to refuse to accept any Quotes for any reason is reserved by MCA even if a previous quotation has been made. All payments must be made in U.S. Dollars. Payment shall be due and payable no later than thirty (30) days from the date of invoice. If Buyer makes payment by check, the check must be drawn on a US bank. Payment shall not be deemed received by MCA for any purpose hereunder, including MCA's security interest in the Goods, until such time as MCA receives cleared available funds. Each Quote, assuming due fulfillment thereof, shall be considered a separate and independent transaction and payment therefor shall be made accordingly. Payment shall not be withheld on account of any claim by Buyer against MCA. Buyer shall not and acknowledges that it will have no right, under this Agreement or any other agreement, document, or law to withhold, offset or debit any amounts owed or due to MCA or any of its Affiliates against any other amount owed or due to MCA or any of its Affiliates under any other document or agreement. If Buyer disputes any portion of a MCA invoice, Buyer shall pay the undisputed portion when due and MCA and Buyer shall work in good faith to resolve the dispute as to the balance within thirty (30) days from notice of the disputed portion, at which point Buyer agrees to pay that portion whether an agreement has been reached or otherwise. Any invoiced amount which is not paid in accordance with this Agreement shall be considered overdue. Nonpayment or delay in payment by Buyer shall be considered a breach of the Agreement. If services, installation and/or shipments (as applicable to a particular Quote) are delayed by the Buyer, payments shall be due on the date when MCA is prepared to perform (or cause a third party to perform). Goods held for the Buyer shall be at the risk and expense of the Buyer. Goods shipped as exchanges will be invoiced for full value until the exchange is complete and Goods has been returned to MCA in good and working condition, at which point a credit for the full value will be given to Buyer. If the financial condition of the Buyer at any time does not, in MCA's sole and absolute discretion, justify continuance of performance or shipment on the terms of payment specified, MCA may require full or partial payment from the Buyer in advance. In the event of bankruptcy or insolvency of the Buyer, or in the event any proceedings are brought by or against the Buyer under any bankruptcy or insolvency laws, MCA shall be entitled to cancel any Quote then outstanding and shall receive reimbursement for any expenses incurred by it in connection with such cancellation and any applicable cancellation charges.
4. **STANDARD TERMS WITHOUT CREDIT:** If Buyer has not established preliminary credit with MCA, prepayment of the full amount of any invoice is required, unless such requirement is waived by MCA in its sole and absolute discretion.
5. **STANDARD TERMS WITH CREDIT:**
 - a. Up to \$50,000.00 – within Net thirty (30) days after date of invoice submitted by MCA.
 - b. Over \$50,000.00 may require the below milestone payments:
 - 40% down once a Quote is accepted by MCA
 - 50% once materials shipped for Buyer's use
 - 10% within thirty (30) days of the earlier of invoice or completion of installation, if applicable.
6. **NON-STANDARD CREDIT TERMS:** Negotiable prior to Quote acceptance.

7. **NON-STANDARD PAYMENT TERMS:** Non-standard payment terms which include cash payments and credit card payments by customers with credit terms with MCA, may be subject to convenience fees, in MCA's sole and absolute discretion.
8. **LATE FEES:** MCA shall be entitled, without prejudice to any of its other rights or remedies, after a seven (7) day grace period, to charge Buyer interest at the rate of 1.5% on any past due amount.
9. **TAXES:** The prices stated in any quote or Quote may not include any provision for sales, use, excise, or similar taxes. The amount of any and all such present or future taxes or other government charges applicable to the Services and, if applicable, the Goods will be added by MCA to the sales price and shall be paid by the Buyer, unless Buyer provides MCA with a tax-exemption certificate acceptable to the taxing authority. If MCA is required to pay or bear the burden of any excluded tax, the prices set forth herein shall be increased by the amount of such tax and any interest or penalty assessed, and Buyer shall pay to MCA the full payment of any such increase no later than ten (10) days after receipt of invoiced charges.
10. **SECURITY INTEREST.** Buyer grants to MCA a purchase money security interest in the Goods, including any software provided hereunder, and to the proceeds thereof until the full price and all other liabilities due to MCA are satisfied. Upon any default or breach by Buyer hereunder and to the extent applicable, MCA shall have all of the rights and remedies of a secured party under the Uniform Commercial Code or other applicable law, which rights shall be cumulative. Buyer hereby authorizes MCA to take any and all steps it determines are necessary to cause its security interest to be maintained and perfected, including, without limitation, the filing of any financing statements, and any amendments and/or renewals thereof. MCA shall have the right to enter Buyer's premises and repossess and remove any Goods if full payment has not been timely received by MCA.
11. **DELIVERY:** Unless otherwise specifically stated in an agreement signed by the Parties, delivery of all Goods shall be FOB MCA's shipping facility or at MCA's option, FOB point of manufacture. The Goods shall be delivered to the delivery address stated in the Quote. Shipping or delivery dates are best estimates only. In either case during the Buyer's usual business hours. MCA will arrange for ground shipment through a carrier of its choice unless a specific carrier has been mutually agreed upon in writing by both Buyer and MCA. All shipping charges will be prepaid by MCA and subsequently added to the Buyer's invoice. Title and risk of loss or damage shall pass to Buyer upon MCA's delivery of the goods to a common carrier or other delivery agency for shipment to Buyer. MCA assumes no liability in connection with shipment nor shall the carrier in any way be construed to be an agent of MCA. MCA shall not be liable for any damages or penalty for delay caused by transportation or failure to give notice of such delay. The Goods shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier, if applicable, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course. If MCA is unable to make deliveries as specified by Buyer, MCA shall notify Buyer immediately. Upon MCA's notification to the Buyer of delivery, or upon storing the Goods at the Buyer's request, the Buyer is deemed to have accepted the Goods, and thus, the ownership and all associated liabilities for the Goods. Upon delivery, any and all risks related to the possession, use, or maintenance of the Goods shall be borne solely by the Buyer. Insurance is the sole responsibility of the Buyer. MCA is not responsible for procuring insurance for the Goods, and the cost of any insurance coverage will not be included in the Product price unless explicitly requested by the Buyer at the time of Quote acceptance. Should the Buyer request MCA to insure the Goods, the associated costs will be added to Buyer's invoice. MCA reserves the right to make deliveries in installments and the contract shall be severable as to such installments. Delivery delay or default of any installment shall not relieve Buyer of its obligation to accept and pay for remaining deliveries.
12. **INSPECTION:** MCA shall take any steps necessary to comply with any reasonable request by the Buyer to inspect or test the Goods prior to installation. If as a result of inspection or testing the Buyer is not satisfied that such Goods will perform as anticipated per the written guidelines of the applicable manufacturer of any particular Goods (each, a "Manufacturer"), and if the Buyer so informs MCA within three (3) days of inspection or testing, MCA shall take commercially reasonable steps as are necessary to ensure compliance. Failure to so inform MCA within such three (3)-day period shall constitute Buyer's irrevocable waiver of its rights under this Section.
13. **CANCELLATION.** In the event of a cancellation by Buyer for any reason, Buyer will be responsible for payment to MCA for all Goods received, all non-cancelable goods on order with third-party suppliers, as well as Services provided up to the date of cancellation as follows:
 - a. **Goods:** Buyer will pay the full price for all Goods that have been delivered and received, or which are in transit, whether to the project site or as Offsite Stored Materials, through the date that notice of cancellation is received by MCA. These Goods will be invoiced at the previously agreed-upon rates and payment will be made within 30 days of the date of invoice.
 - b. **Goods on Order and Non-Cancelable:** Buyer will pay the full agreed upon price for all Goods that have been ordered specifically for the project and which cannot be canceled or returned for full reimbursement. This includes any custom-made items or materials that were procured for the project. These Goods will be invoiced at the previously agreed-upon rates and payment shall be made within 30 days of the date of invoice.
 - c. **Services Provided:** Buyer will pay for all Services rendered by MCA up to the date notice of project cancellation is received by MCA. The Services will be invoiced at the previously agreed-upon rates and payment will be made within thirty (30) days from the date of the invoice. Services provided include but are not limited to consultation, design, installation labor, project management, subcontracted services and any other services outlined in the Agreement.
 - d. **Returnable or Cancelable Goods:** May be returned at Buyer's expense and may be subject to restocking charges. Programmed Goods may be returned at MCA's discretion and will be subject to a reprogramming fee.
14. **WARRANTY:**
 - a. **MANUFACTURER'S WARRANTIES.** Manufacturers of the Goods provide warranties, including, a software warranty and a license warranty, of varying periods and coverage (collectively, "Manufacturer Warranties"). Written copies of Manufacturer Warranties are available upon request. Buyer acknowledges and agrees that MCA shall have no obligation whatsoever in respect of Manufacturer Warranties and makes no warranty with respect to any goods or supplies supplied by any third party.
 - b. **LIMITED SERVICES WARRANTY.** MCA warrants to Buyer that it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under the Agreement ("Limited Services Warranty"). The Limited Services Warranty shall survive for a period of twelve (12) months following the date Services commences (the "Warranty Period"). The Limited Services Warranty is not assignable or transferable to any third party (including any Affiliate of Buyer).
 - c. **WARRANTY DISCLAIMER. EXCEPT FOR THE LIMITED SERVICES WARRANTY, MCA MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO SERVICES AND/OR ANY GOODS, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF TITLE; (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; OR (E) OTHER WARRANTY WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

- d. **WARRANTY CONDITIONS.** MCA shall not be liable for a breach of the Limited Services Warranty unless: (A) Buyer gives written notice of breach thereof, reasonably described, to MCA within twenty (20) days of the time when Buyer discovers or ought to have discovered the breach and such notice is given during the Warranty Period and (B) MCA reasonably verifies Buyer's claim that the Services was defective. MCA shall not be liable for a breach of the Limited Services Warranty if (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow MCA's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or (iii) Buyer alters or repairs such Goods without the prior written consent of MCA.
 - e. **EXCLUSIVE REMEDIES.** Subject to Buyer's compliance with the paragraph titled "Warranty Conditions" above, Buyer's sole and exclusive remedy for breach of the Limited Services Warranty shall be, in MCA's sole discretion, (i) to repair or re-perform the applicable Services or (ii) to credit or refund the price of such Services at the pro rata contract rate. SUCH REMEDY SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND MCA'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED SERVICES WARRANTY.
15. **AFFILIATES.** MCA reserves the right, without prior notice to Buyer, to provide any Goods through, or cause any of its obligations under this Agreement to be performed by any of its Affiliates. In such case, the work shall be treated as a separate agreement between the Buyer and Affiliate, governed by the Agreement with the Affiliate taking the place of MCA for all purposes herein. Buyer is to make payment directly to the Affiliate for such Quotes. For the purposes of this Agreement, "Affiliate" shall mean, with respect to a Party, any entity which owns or controls, is owned or controlled by, or is under common ownership or control with, such Party. In addition, MCA may subcontract the Services to be provided to Buyer to a third party without Buyer's consent, provided that such subcontracting will not release MCA from any of its obligations under the Agreement.
 16. **FORCE MAJEURE:** MCA shall not be responsible for any failure to perform due to causes beyond its reasonable control, such as, but not limited to, acts of God, flood, fire, earthquake, explosion, acts of the Buyer, acts of civil or military authority, war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, embargoes or blockades, national or regional emergency, judicial action, pandemic, epidemic, default of subcontractors or vendors, labor disputes, accident, failure or delays on transportation, and inability to obtain necessary power, labor or materials (each, a "Force Majeure Event"). In the event of any delay due to such causes, or other difficulties, (whether or not similar in nature to any of those specified) the date of delivery shall be extended for a period equal to the time lost.
 17. **GOVERNMENT CONTRACTS:** In the event that the Buyer's customer is the United States Government, the Services and, if applicable, Goods are purchased as Commercial Services or Commercial Goods, respectively, under the Federal Acquisition Regulation ("FAR"), and MCA will agree to comply with, if applicable, FAR 52.212-5 (Contract Terms and Conditions Required to Implement Statutes or Executive Quotes—Commercial Goods and Commercial Services). Any other Government flow downs shall be negotiated by the Parties and agreed upon between the Parties in writing prior to acceptance of a Quote by MCA.
 18. **FCC AND OTHER GOVERNMENT MATTERS:** Although MCA may assist in the preparation of FCC License Applications as a courtesy, Buyer is solely responsible for obtaining any licenses dictated under the FCC's rules and regulations or required by any other Federal, State or Local government agency. Neither MCA nor any of its employees is an agent of the Buyer in FCC or other governmental matters.
 19. **NON-SOLICITATION.** MCA expends considerable resources including money, time, training, etc. to properly train and educate its employees. MCA experiences considerable financial and other harm when its employees are recruited and hired by customers. Therefore, Buyer agrees to not recruit or solicit any MCA employee until and after such employee has terminated his employment with MCA for a period of at least one (1) year. In consideration of MCA performing its services under this Agreement, Buyer acknowledges MCA's damages in such event and agrees to pay as liquidated damages for breach of this Section a one-time payment equal to five hundred (500) times the then standard technician hourly billable rate, which is currently \$200/hour.
 20. **PATENT, COPYRIGHT AND TRADEMARKS:**
 - a. **COPYRIGHT AND MASK WORKS:** Laws in the United States and other countries preserve for manufacturers certain exclusive rights, in the manufacturer's software incorporated into any Goods ("Manufacturer's Software") or included in Services, mask works and other works of authorship furnished hereunder, including, without limitation, the exclusive rights to prepare work derived from same, reproduce copies in same and distribute copies of same. Such Manufacturer's Software, mask works and other works of authorship may be used in, and redistributed with, only the Goods which incorporate the same. No other use, including without limitation, the reproduction, modification, or disassembly of such Manufacturer's Software, mask works and other works of authorship or exclusive rights in same is permitted.
 - b. **REVERSE ENGINEERING:** Buyer acknowledges manufacturer's claim that the Manufacturer's Software and Goods furnished hereunder contain valuable trade secrets of manufacturer and therefore agrees that it will not translate, reverse engineer, decompile, or disassemble, or make any other unauthorized use of such Manufacturer's Software and Goods. Since unauthorized use of such Manufacturer's Software and Goods will greatly diminish the value of such trade secrets.
 - c. **LOGOS AND TRADEMARKS:** Buyer shall not have a right to use any trademarks, names, slogans, or designations of MCA or any manufacturer of Goods incorporated into or included in any Goods and/Services.
 21. **MUTUAL WAIVER OF SUBROGATION.** Customer and MCA waive all rights against each other for damages caused by any loss, to the extent those losses are covered and paid by insurance, and except such rights as they have to proceeds of such insurance. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property. Except for damages covered and paid by insurance (for which the Parties have waived rights of subrogation, as outlined elsewhere in this agreement), the Parties agree that MCA's aggregate liability for all claims, suits, actions and proceedings, howsoever arising, directly or indirectly, under or relating to this agreement or its subject matter, including (but not limited to) those based on breach or rescission of contract or tort, shall not exceed, in the aggregate: (i) the fees paid by the Customer to MCA under this Agreement.
 22. **LIMITATIONS:**
 - a. **LIMITATIONS OF MCA LIABILITY.** IN NO EVENT SHALL MCA BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT IN RESPECT OF ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT MCA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. NO ACTION SHALL BE BROUGHT FOR ANY BREACH OF THIS CONTRACT MORE THAN ONE (1) YEAR AFTER THE ACCRUAL OF SUCH CAUSE OF ACTION EXCEPT FOR MONEY DUE UPON AN OPEN ACCOUNT. Both Parties agree that this waiver of consequential damages is a material inducement to enter into this Agreement.
 - b. **MAXIMUM LIABILITY.** IN NO EVENT SHALL MCA'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE PURCHASE

PRICE OF THE PARTICULAR GOODS SOLD AND/OR SERVICES RENDERED HEREUNDER WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED.

- c. **EXCLUSIONS.** Notwithstanding the foregoing, the limitations of MCA's liability set forth herein shall not apply to (i) liability resulting from MCA's willful misconduct and (ii) death or bodily injury resulting exclusively from MCA's acts or omissions.
 - d. **INSURANCE:** It is further understood that MCA is not an insurer, and that Buyer shall obtain and maintain all necessary and appropriate policies of insurance in respect of its obligations under this Agreement. MCA does not represent or warrant, and MCA hereby expressly disclaims any responsibility for, that Goods will avert or prevent occurrences, or the consequences therefrom, which are monitored, detected, or controlled with the use of the Goods sold herein.
 - e. **NO REPRESENTATIONS.** MCA's representatives are only authorized to fill in the blanks on any agreement, sales Quote or quote form governed by this Agreement. The issuance of information, advice, approvals, instructions or cost projections by MCA sales or service personnel or other representatives shall be deemed expressions of personal opinion only and shall not affect MCA and Buyer's rights and obligations hereunder, unless that same is in writing and signed by an officer of MCA with the explicit statement that it constitutes an amendment to the Agreement.
23. **INDEMNITY.** MCA agrees to indemnify and hold harmless the Customer, including its officers, directors, and employees, from and against all losses, damages, expenses, and claims, up to the amount of the Quote, but only to the extent caused solely by the grossly negligent acts or omissions of MCA in the performance of Services. Buyer agrees to indemnify, defend, and hold harmless MCA, its officers, directors, and employees for any and all claims, including claims asserted by third parties, and against any and all liabilities, losses, damages, expenses, liens, claims, demands, actions, judgments, settlements, interest, awards, penalties, fines costs and expenses, including, without limitation, reasonable attorneys' fees, costs of collection, costs of recovering insurance, and costs of enforcing this indemnification provision for death, personal injury, or property damage arising out of any negligent act or omission of Buyer, except to the extent such claims are contributed to by (i) the negligence or willful misconduct of MCA. Any Party seeking indemnity hereunder agrees to (i) notify the other Party in writing of any claims as soon as reasonably practicable; (ii) allow the other Party to control the defense of any such claim and related settlement negotiations; and (iii) reasonably cooperate with the other Party in any defense actions.
24. **GOVERNING LAW AND VENUE.** This Agreement is governed by and construed in accordance with the laws of where the Project is located. In addition, the Parties hereto consent to the jurisdiction of any South Carolina state or federal court over any claims arising under or relating to this Agreement, or the relationship between them.
25. **DISPUTES AND ATTORNEYS' FEES.** The Parties shall attempt in good faith to resolve any disputes, controversy, or claim arising out of this Agreement by negotiation between the representatives of each Party who have the authority to settle the dispute. As a precondition to commencing litigation of any dispute which cannot be so resolved (other than the collection of money due on unpaid invoices), the Parties agree to participate in mediation with a mediator to be chosen by mutual agreement. If mediation is unsuccessful, any litigation shall take place in Spartanburg County South Carolina, United States of America, which shall be the exclusive forum for resolving the dispute, controversy, or claim. Each Party irrevocably and unconditionally waives any right to a trial by jury in respect to any legal action arising from this Agreement or any other agreement between the Parties. Should any dispute arise between the Parties regarding the interpretation, application, effect or enforcement of this Agreement, the prevailing party in any legal or arbitration proceedings commenced to resolve the dispute shall be entitled to costs and reasonable attorney's fees incurred in said legal proceeding.
26. **ASSIGNMENT.** This Agreement shall be binding upon and inure to the benefit of each Party and its respective heirs, successors, and assigns. The Buyer shall not assign in whole or in part these T&Cs or any interest therein or any rights hereunder without the written consent of MCA, which shall not be unreasonably withheld or delayed. Any such assignment without consent shall be void. Notwithstanding the foregoing, MCA may assign this Agreement or any other agreement between the Parties, without consent in whole or in part, for the purposes of corporate reconstruction, reorganization, or analogous proceeding, or to (a) any Affiliate; or (b) a third party in the event of a merger, recapitalization, conversion, consolidation, other business combination or sale of all or substantially all of the assets of MCA to such third party.
27. **NOTICES.** All notices or communications (other than normal business communications) required by this Agreement, or desired to be given hereunder, shall be in writing addressed indicated in the applicable signature block hereto, and given by electronic or USPS mail, with delivery confirmation, or an overnight mail service that confirms delivery and shall be deemed to be given when received.
28. **NON-WAIVER:** The failure of MCA to insist, in any one or more instances, upon the performance of any such term, covenant or conditions of this Agreement or to exercise any right herein, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition or the future exercise of such right, but the obligation of the Buyer with respect to such future performance shall continue in full force and effect.
29. **SEVERABILITY:** If any provision or part-provision of this Agreement is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
30. **ENTIRE AGREEMENT.** This Agreement, together with the Quotes and any Exhibits attached thereto, from time to time, sets forth the entire agreement and understanding between the Parties and supersedes all prior negotiations, agreements and understandings with respect thereto. No representations, statements, or inducements, oral or written, not contained herein shall bind either Party. This Agreement may only be amended by a written document duly executed between the Parties. No waiver, alteration or modification of the Agreement shall be binding on MCA unless in writing and signed by an authorized signor of MCA.