

STATE OF TEXAS §
§
COUNTY OF FORT BEND §

ADDENDUM TO CENGAGE LEARNING, INC.'S AGREEMENT FY 2024

THIS ADDENDUM ("Addendum") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Cengage Learning, Inc., ("Cengage Learning"), a company authorized to conduct business in the State of Texas (hereinafter collectively referred to as the "parties").

WHEREAS, subject to the changes herein, the parties have executed and accepted the Thorndike Press Subscription Profiles and Cengage Learning's Gale Product and Services Agreement and Terms & Conditions, (collectively the "Agreement"), attached hereto as Exhibit "A" and incorporated fully by reference, for the purchase and use of specified literary subscriptions and hosting services (the "Services"); and

WHEREAS, County desires that Cengage Learning provide Services as will be more specifically described in this Agreement; and

WHEREAS, Cengage Learning represents that it is qualified and desires to perform such Services; and

WHEREAS, Cengage Learning is the sole source provider of the Services as indicated by the letters attached hereto as Exhibit "B" and incorporated by reference; and

WHEREAS, the Texas County Purchasing Act, § 262.024(a)(7) of the Texas Local Government Code, exempts from competitive bidding contracts items that can be obtained from only one source; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

1. **Term.** The term of the Agreement is effective as of December 31, 2023, and shall expire no later than December 30, 2024, unless terminated sooner pursuant to the Agreement. This Agreement shall not automatically renew, but may be subsequently renewed in writing upon agreement of the parties. The parties acknowledge and agree that Services were and will be supported by good and valuable consideration during the Term of this Agreement, the sufficiency of which is acknowledged by the parties.
2. **Scope of Services.** Subject to this Addendum, Cengage Learning will render Services to County as described in Exhibit A.
3. **Payment; Non-appropriation; Taxes.** Cengage Learning's fees shall be calculated at the rates set forth in the attached Exhibit A. The Maximum Compensation for the performance of

Services within the Scope of Services described in Exhibit A is Fifty-One Thousand Nine Hundred Eighty-Eight and 0/100 dollars (\$51,988.00). In no case shall the amount paid by County under this Agreement exceed this Maximum Compensation without an approved change order.

Cengage Learning understands and agrees that the Maximum Compensation stated is an all-inclusive amount and no additional fee, cost, or reimbursed expense shall be added whatsoever to the fees stated in the Exhibit(s).

All performance of the Scope of Services by Cengage Learning including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.

Payment shall be made by County within thirty (30) days of receipt of invoice. If County disputes charges related to the invoice submitted by Cengage Learning, County shall notify Cengage Learning no later than twenty-one (21) days after the date County receives the invoice. It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County. County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request. Interest resulting from late payments by County shall be governed by Chapter 2251, TEXAS GOVERNMENT CODE. County reserves the right to withhold payment pending verification of satisfactory work performed.

4. **Limit of Appropriation.** Cengage Learning clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Fifty-One Thousand Nine Hundred Eighty-Eight and 0/100 dollars (\$51,988.00), specifically allocated to fully discharge any and all liabilities County may incur. Cengage Learning does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Cengage Learning may become entitled to and the total maximum sum that County may become liable to pay to Cengage Learning shall not under any conditions, circumstances, or interpretations thereof exceed Fifty-One Thousand Nine Hundred Eighty-Eight and 0/100 dollars (\$51,988.00). In no event will the amount paid by the County for all services under this Agreement exceed this Limit of Appropriation without an amendment executed by the parties.
5. **Public Information Act.** Cengage Learning expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Cengage Learning shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the

Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

6. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless Cengage Learning or any other party for any reason are hereby deleted.
7. **Applicable Law; Arbitration; Attorney Fees.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by Cengage Learning in any way associated with the Agreement.
8. **No Waiver of Jury Trial.** The County does not agree that all disputes (including any claims or counterclaims) arising from or related to this Agreement shall be resolved without a jury. Therefore, any references to waiver of jury trial are hereby deleted.
9. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content. For purposes of Sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, Cengage Learning hereby verifies that Cengage Learning and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:
 - a. Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
 - b. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Cengage Learning does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of the Texas Government Code.
 - c. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Cengage Learning does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in § 809.001 of the Texas Government Code.
 - d. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Cengage Learning does not have a practice, policy, guidance, or

directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in § 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in § 2274.001(6) and (7) of the Texas Government Code.

10. **Modifications and Waivers.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.
11. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, CENGAGE LEARNING ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
12. **Use of Customer Name.** Cengage Learning may use County's name without County's prior written consent only in any of Cengage Learning's customer lists, any other use must be approved in advance by County.
13. **Product Assurance.** Cengage Learning will, at its expense, defend any suit brought against County and will indemnify County against an award of damages and costs (including reasonable attorney fees, court costs and appeals), made against County by settlement or final judgment of a court that is based on a claim that the use of Cengage Learning's Product infringes an intellectual property right of a third party. Such defense and indemnity shall survive termination or expiration of the Agreement and Cengage Learning's liability for the above is not limited by any limitation of liability clauses that may appear in any document executed by the parties.
14. **Performance Warranty.** Cengage Learning warrants to County that Cengage Learning has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Cengage Learning will apply that skill and knowledge with care and diligence to ensure that the services provided hereunder will be performed and delivered in accordance with the highest professional standards.

Cengage Learning warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibits.
15. **Conflict.** In the event there is a conflict between this Addendum and the Agreement, this Addendum controls to the extent of the conflict.

16. **Understanding, Fair Construction.** By execution of this Addendum, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.
17. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.
18. **Electronic and Digital Signatures.** The parties to this Agreement agree that any electronic and/or digital signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.
19. **County Data.** Nothing in this Agreement will be construed to waive the requirements of § 205.009 of the Texas Local Government Code. Nothing in this Agreement will be construed to waive the requirements of any record retention laws applicable to County.
20. **Compliance with Laws.** Cengage Learning shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Cengage Learning shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.
21. **Termination.**
- 21.1. Termination for Convenience. County may terminate this Agreement at any time upon thirty (30) days written notice.
- 21.2. Termination for Default. County may terminate the whole or any part of this Agreement for cause in the following circumstances:
- (a). If Cengage Learning fails to timely perform services pursuant to this Agreement or any extension thereof granted by the County in writing;
 - (b). If Cengage Learning materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.
- 21.3. If, after termination, it is determined for any reason whatsoever that Cengage Learning was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with § 21.1 above.

- 21.4. Upon termination of this Agreement, County shall compensate Cengage Learning in accordance with § 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Cengage Learning's final invoice for said services will be presented to and paid by County in the same manner set forth in § 3 above.
- 21.5. If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Cengage Learning.
- 21.6. If County terminates this Agreement prior to the termination date, County shall not be subject to any early termination fee or other penalty.
22. **Independent Contractor.** In the performance of work or services hereunder, Cengage Learning shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of Cengage Learning or, where permitted, of its subcontractors. Cengage Learning and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.
23. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.
24. **Notices.**
- 24.1. Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).
- 24.2. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:
- County: Fort Bend County Libraries
Attn: Library Director
1001 Golfview
Richmond, Texas 77469
- With a copy to: Fort Bend County
Attn: County Judge
301 Jackson Street

Richmond, Texas 77469

Cengage Learning: Cengage Learning, Inc.
Attn: _____
27555 Executive Drive, Suite 350
Farmington Hills, MI 48331

- 24.3. A Notice is effective only if the party giving or making the Notice has complied with subsections 24.1 and 24.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

24.3.1. If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

24.3.2. If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

(Execution Page Follows)

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

CENGAGE LEARNING, INC.

KP George, County Judge

Sabine McAlpine

Authorized Agent – Signature

Date

Sabine McAlpine

Authorized Agent- Printed Name

ATTEST:

Sales Director

Title

Laura Richard, County Clerk

11/21/2023

Date

Reviewed By:

Amy J. Russell

Fort Bend County Libraries

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$ _____ are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant, County Auditor

Exhibit A: Thorndike Press Subscription Profiles, and Cengage Learning's Gale Product and Services Agreement and Terms & Conditions; and
Exhibit B: Sole Source Letters

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Exhibit A

Fort Bend County Library - Account #166914

Standing Order Plan Quote 2023 - 2024

QTY	Standing Order Plan	Titles/Yr	Price/Yr	Ext. Price	Disc
2	Black Voices 4	48	\$1,188	\$2,375	25%
2	Christian Fiction 5	60	\$1,494	\$2,987	25%
2	Christian Romance 4	48	\$1,134	\$2,267	25%
2	Cozy Mystery 3	36	\$756	\$1,511	25%
2	Distributed Large Print-7	84	\$1,806	\$3,611	25%
2	Diverse Voices	24	\$630	\$1,260	25%
2	Hardcover 5 / Dynamic Drama	60	\$1,683	\$3,365	25%
2	Hardcover Western 4	48	\$1,134	\$2,267	25%
2	Mystery 3	36	\$945	\$1,889	25%
2	Nonfiction 2	24	\$639	\$1,278	25%
2	Romance 4	48	\$1,206	\$2,411	25%
2	Sim Pub Club	180	\$5,283	\$10,565	25%
Discounted Annual Total for All Plans:				\$35,788	

**THORNDIKE PRESS**
from Gale

Subscription Profile
Fort Bend County Libraries – Account #166914



The World's Leading Publisher of Large Print Books

BLACK VOICES

Captures bestselling, award winning and popular contemporary Black writers. Includes *New York Times* bestsellers and other well-reviewed titles in fiction, memoir or biography. Collection focuses on titles about relationships and experiences of Black women and men through the ages.

BLACK VOICES 4 (T190)

48 titles a year, monthly shipments, for about \$1188/year.

- A mix of bestsellers and high-demand, high-hold titles, strong and mid-list titles
- Selection of titles from a range of subgenres
- Popular with a range of readers

CHRISTIAN FICTION

Christian Fiction is a very popular genre with a range of readers. These titles are engaging, well written, as well as being wholesome fiction with Christian themes and messages that appeals to all ages. Many of the top Christian bestselling authors are found in this list as well as a mix of subgenres.

CHRISTIAN FICTION 5 (T189)

60 titles a year, monthly shipments, for about \$1,494/year.

- Many Christian Bookseller Association bestsellers
- A mix of high-demand, high-hold titles, strong and mid-list titles
- Popular with a range of readers

CHRISTIAN ROMANCE

A mix of engaging clean romances that are appropriate for all ages. These are well-written, compelling and entertaining romances with a Christian message that will delight readers.

CHRISTIAN ROMANCE 4 (T191)

48 titles a year, monthly shipments, for about \$1134/year.

- Many Christian Bookseller Association bestsellers
- A mix of high-demand, high-hold titles, strong and mid-list titles
- Popular with a range of readers

SOFTCOVER COZY MYSTERY

Shorter books that are a quick read and lighthearted in tone involving amateur sleuths solving the crimes. They contain loveable characters and amusing dialogue without any graphic sex, violence, or profanity.

COZY MYSTERY 4 (W15)

48 softcover titles a year, monthly shipments, for about \$1008/year.

COZY MYSTERY 3 (W17)

36 softcover titles a year, monthly shipments, for about \$756/year.

- Many well-known cozy authors
- A mix of strong and mid-list titles
- Popular with a range of readers

DISTRIBUTION

As a special service to our customers, we distribute Large Print titles from other publishers through our catalog. This offers the convenience of ordering from one source. The deluxe plan will have approximately 200 titles April 2023 to March of 2024.
(Distribution plans include both hardcovers and softcovers.)

DISTRIBUTION 7 (T57)

84 titles a year, monthly shipments, for about \$1,806/year.

- Many A-list bestsellers
- High-demand, high-hold titles
- Mix of popular fiction genres
- Occasional narrative nonfiction
- Perfect for any size library
- Great complement to Top Shelf, High Octane or Dynamic Drama plans

DIVERSE VOICES

Coming in July of 2023! Features fiction from authors and content representative of Asian, Asian American, Pacific Islander, Indigenous, and Latinx/Hispanic experiences.

DIVERSE VOICES (T805)

24 titles a year, monthly shipments of two titles, for about \$630/year.

- Balance of author and content representation across ethnicities
- Panel of librarians to recommend title selections
- Highly acclaimed and well-reviewed fiction
- Variety of sub-genres: from thriller to women's fiction

DYNAMIC DRAMA

Share untold stories and insight into daily life with this collection of historical fiction, women's fiction, romance, family life, realistic fiction, and similar genres.

Many of them are Simultaneous Publications.

DYNAMIC DRAMA 5 (W20)

60 titles a year, monthly shipments, for about \$1,683/year.

- Bestsellers by popular authors (examples of authors include J. D. Robb, Robyn Carr, Karen Kingsbury, Susan Mallery, Fern Michaels, Janet Dailey, Phaedra Patrick, Alexander McCall Smith, Diana Palmer, Christina Dodd, Sally Hepworth)
- Popular and critically acclaimed novels in the following genres:
 - Domestic Suspense
 - Relationship Reads
 - Historical Fiction
 - Women's Fiction
 - Romance
 - Family Life

MYSTERY

The mystery genre remains a perennial favorite and often the most popular genre in a library. Titles in this plan are meant for a range of mystery readers who read a mix of all the mystery subgenres: classic whodunits, hard-boiled investigators, cozies, police procedurals, true crime, and adventure/suspense. This plan includes many of the highly acclaimed and unique mystery titles that enter the market.

MYSTERY 3 (T31)

36 titles a year, monthly shipments, for about \$945/year.

- Many bestsellers and popular mystery authors
- A mix of high-demand, high-hold titles and strong and mid-list titles
- Selection of titles from mystery subgenres
- Perfect for any library
- A must-have for any Large Print collection

NONFICTION

Features bestselling and popular nonfiction titles that are highly engaging and have a broad appeal to many readers. Titles included in this plan cover a wide spectrum of nonfiction subgenres — including armchair travel, popular science, pets and animals, popular culture, humor, history, current events, biographies and memoirs, and other standouts in narrative nonfiction.

NONFICTION 2 (T74)

24 titles a year, monthly shipments, for about \$639/year.

Many A-list bestsellers

- High-demand, high-hold titles
- Popular with a range of readers
- Perfect for any library

ROMANCE

Romance at its best. With titles from every popular subgenre of romance, in styles from chaste to explicit, this subscription offers selections for every romance reader. A mix of top-selling contemporary authors.

ROMANCE 4 (W02)

48 titles a year, monthly shipments, for about \$1,206/year.

- Many bestsellers and popular romance authors
- A mix of high-demand, high-hold titles, strong and mid-list titles
- Selection of titles from most romance subgenres
- Perfect for any library
- A must-have for any Large Print collection

SIM PUB CLUB

Each year, Thorndike Press will publish 200+ Large Print bestselling titles simultaneously with the publishers' regular print editions.

If your library is currently enrolled in at least two of the following Thorndike Press plans:

Top Shelf, High Octane, and Dynamic Drama, then you qualify to receive multiple copies of all our simultaneous publications automatically.

Deluxe includes Christian Fiction simultaneous publications.

SIM PUB CLUB (T89)

180 titles a year for about \$5,283/year.

WESTERN

Titles featuring the best of the Old West;
traditional Westerns by the best-known authors.

WESTERN 4 (T167)

48 titles a year, monthly shipments, for about \$1,134/year.

- The best of the West
- New favorites and classic Western writers

CENGAGE SALES AGREEMENT

This Agreement, including any attachments or exhibits hereto, (collectively, the **"Agreement"**), made effective on the date of last signature below (**"Effective Date"**), is between Cengage Learning, Inc. (**"Cengage"**) and the customer identified below (**"Customer"**). This Agreement allows Customer to purchase certain products and/or services (the **"Offerings"**), or access thereto, subject to and in accordance with the terms hereunder.

Name and Address of Customer:

Fort Bend County Libraries
1003 Golfview Dr.
Richmond, TX., 77469

Term: Beginning on **12/31/2023** and ending **12/30/2024** (the “Term”).

Gale Products and/or Services and fees:

Gale Ebook Platform Annual Hosting fee - \$1,200.00

TOTAL: \$1,200.00

All payments shall be made in United States' Dollars. Customer shall remit payment within thirty (30) days upon receipt of an invoice.

CUSTOMER	CENGAGE LEARNING, INC.
Signature:	Signature:

TERMS & CONDITIONS

1. Product and Services, Uptime. Subject to the timely receipt of all required fees and conformance to the terms herein, Cengage shall make the Offerings available for use by Customer's Authorized Users. An "Authorized User" means only (i) for public libraries: library staff, individual residents of the library's reasonably defined geographic service area, and walk-in patrons accessing the Products and/or Services on site; (ii) for schools and academic institutions: currently enrolled students, faculty, staff, and visiting scholars, as well as walk-in patrons accessing the Products and/or Services on site; (iii) for other types of organizations and subscribers: employees, and independent contractors, in the capacity of their employment or engagement with the organization. The term Authorized Users excludes persons associated with corporate affiliates of the Customer unless those users are expressly identified in this Agreement. Cengage shall make the Product and Services available for use by Customers' Authorized Users. Cengage may with, or without notice, add, change, or remove features of the Offerings, at any time. Cengage will use reasonable commercial efforts to ensure that the Offerings are available on a monthly basis not less than 98.0% of the time, exclusive of scheduled outages, maintenance, and downtime that is outside of Cengage's reasonable control. As Customer's sole remedy for Cengage's failure to meet the monthly uptime requirement, at Customer's request, Cengage may provide a credit of the fee pro-rated for the month where service was interrupted, in Cengage's sole discretion.

2. Use of the Offerings. Customer may permit its Authorized Users to access and use the applicable Offerings for their individual, personal, non-commercial, educational, academic, and instructional use, only. For Offerings access that includes a limit on the number of Authorized Users, Authorized Users includes individuals authorized to use the Offerings, regardless of whether any such individual is actively using the Offerings at a particular time. Customer shall not use or transmit the Offerings in any manner except as specifically authorized herein. Customer acknowledges and agrees that Authorized Users access to the Offerings may be conditioned upon their acceptance of, and subject to the Terms of Use ("Terms of Use") and the Cengage Privacy Policy then in effect, and that in such cases, failure or refusal to accept or abide by the Terms of Use may disable

access to the Offerings. Customer shall take all reasonable precautions necessary to safeguard against unauthorized access and/or use of the Offerings and prevent the "Prohibited Uses" defined in the Terms of Use and shall cooperate with Cengage to identify the source(s) of and, whenever possible, disable unauthorized access and/or Prohibited Uses promptly upon Cengage's request. For Institutional Sales only, Customer shall be solely responsible for creating, hosting and maintaining Authorized User access to the Offerings whether by Customer's website or learning management system or other method. Cengage may suspend Customer's and/or any Authorized User's access to the Offerings without liability if: (i) Cengage reasonably believes that the Offerings are being used in violation of this Agreement or the Terms of Use; (ii) Customer fails to cooperate with Cengage's reasonable investigation of a suspected violation of this Agreement or the Terms of Use; (iii) there is an attack on the Offerings or either is accessed or manipulated by a third party in violation of this Agreement or the Terms of Use; (iv) Cengage is required by law, or a regulatory or government body to suspend access to the Offerings; or (v) there is another event for which Cengage reasonably believes that the suspension of access to the Offerings is necessary to protect the Offerings or Cengage's other customers from imminent and significant operational, legal, or security risk. Cengage will give Customer advance notice of a suspension under this section of at least thirty-six (36) hours unless Cengage determines in its reasonable commercial judgment that a suspension on shorter or contemporaneous notice is necessary to protect the Offerings or Cengage's other customers from imminent and significant operational, legal, or security risk. Cengage will not suspend access to the Offerings if the grounds on which the suspension are based are cured during the forgoing notice period.

3. Intellectual Property. Cengage has the proprietary rights in and to the Offerings and Cengage owns all, right, title, and interest thereto, including all intellectual property rights associated therewith, throughout the world. Cengage reserves the right, without notice to Customer, to modify, alter, add, remove, cancel or otherwise change the materials embodying the Offerings, in its sole discretion. Customer shall not, by virtue of this Agreement or by virtue of its access to the Offerings obtain any proprietary rights in or to the Offerings. Cengage shall notify

Customer of any such improvements or modifications via the Gale Support Updates page found at <https://support.gale.com/updates/>, unless immediate modification is necessary to comply with legal process, regulation, order, or to prevent harm to Cengage, Customer, or any third party (including Authorized Users). Customer shall not, by virtue of this Agreement or by virtue of its access to the Products and/or Services obtain any proprietary rights in or to the Products and/or Services.

4. Warranties & Indemnities. Customer represents and warrants that: (i) Customer has full power and authority to enter into this Agreement and to grant the rights granted hereunder; (ii) Customer shall not use the Offerings in any manner except as expressly authorized in this Agreement; and (iii) the Customer Materials, if any, do not infringe any right including without limitation any intellectual property right, or violate any proprietary, privacy, publicity or moral right, or contain any libelous, or unlawful matter. To the extent allowable by law, Customer shall defend, indemnify, and hold Cengage and its distributors and service providers, and their respective officers, directors, employees and agents harmless against all claims, demands, suits, losses, costs, damages, and expenses (including attorneys' fees and costs) that Cengage may sustain or incur by reason of any breach or alleged breach of the aforesaid warranties of Customer or any of Customer's other obligations under this Agreement.

5. Term and Termination. This Agreement shall commence as of the date specified in this Agreement and shall continue in full force and effect for the duration of the Term.

6. Payments and Fees. In consideration of the Offerings provided by Cengage to Customer, Customer agrees to pay the fee provided on this Agreement, plus any applicable shipping and handling fees, service fees, and applicable taxes. Customer shall remit payment within thirty (30) days of receipt of an invoice. Purchases are nonrefundable and cannot be exchanged. If Customer fails to make payment, Cengage may, without prejudice to its other rights and remedies suspend or terminate Customer's (and Customer's Authorized Users') use and/or access to the Offerings. Customer shall reimburse Cengage for all reasonable expenses Cengage incurs in collecting past due amounts, including wire transfer fees, collection agency fees, reasonable attorneys' fees, and court costs. Cengage may charge a fee for reinstatement of suspended or terminated service.

7. Limited Liability. Neither Cengage nor its suppliers, nor their respective directors, employees, officers, or representatives will be liable for any damages of any kind arising from the use of or inability to use the Offerings, including but not limited to, any direct, indirect, incidental, special, consequential, exemplary, or punitive damages, or any lost profits, lost data, or loss of revenue. Without limiting the foregoing, Cengage's total liability will at all times be limited to the fees paid by Customer for use of the Offerings at issue during the immediately preceding twelve (12) month period.

8. Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, and legal representatives and permitted successors and assigns, provided that the Customer may not assign this Agreement.

9. Confidentiality. Either party may disclose Confidential Information to the other party during the Term. "Confidential Information" means all information disclosed by one party ("Disclosing Party") to the other party ("Receiving Party") which is in tangible form and labeled "confidential" or the like, or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure. Confidential information will not include information that as shown by the Receiving Party's records was (a) already known to Receiving Party at the time of disclosure by the Disclosing Party; (b) was disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) was independently developed by Receiving Party without use of the Disclosing Party's Confidential Information. The Receiving Party will use no less than a reasonable standard of care to safeguard the Confidential Information received from the Disclosing Party. The Receiving Party will only use the Confidential Information of the Disclosing Party to exercise its rights and perform its obligations under this Agreement, or as otherwise required by law, including any Freedom of Information Act or Public Records Act request. Neither party will disclose Confidential Information in violation of the terms and conditions of this Agreement to any third party without the prior written consent of the other party. Notwithstanding the foregoing, each party may disclose Confidential Information without the prior written consent of the other party: (w) to its regulators, auditors, accreditors, and consultants; (x) as compelled by law provided that, to the extent legally permissible, the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure and reasonable assistance, at the Disclosing

Party's expense, if the Disclosing Party seeks to contest such disclosure; (y) in confidence to its legal counsel; (z) in connection with the enforcement of rights or performance of obligations under this Agreement. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information expressly excluding Customer Materials in confidence to its accountants, banks and financing sources, partners, providers and their advisors; and in confidence, in connection with an actual or proposed merger, acquisition, or similar transaction. This Section 9 shall survive the termination or expiration of this Agreement.

10. Miscellaneous. This Agreement constitutes the entire agreement between the parties relating to the subject matter of this Agreement, and supersedes all other oral or written proposals, negotiations and other communications relating thereto. In the event of a conflict between this Agreement, the terms, or other attachment hereto, the terms and conditions of this Agreement shall prevail. No amendment of this Agreement will be effective unless it is in writing and signed by both parties. No waiver of satisfaction of a condition or noncompliance with an obligation under this Agreement will be effective unless it is in writing and signed by the party granting the waiver, and no such waiver will constitute a waiver of satisfaction of any other condition or noncompliance with any other obligation. Any terms of this Agreement that contemplate compliance or otherwise by their nature should extend after the termination of this Agreement will remain in effect until fulfilled. Except for Customer's payment obligations, neither party shall be responsible for delays or failure of performance resulting from acts beyond the reasonable control of such party, including but not limited to, acts of God, acts of terrorism, strikes, walkouts, riots, acts of war, epidemics, failure of suppliers to perform, governmental regulations, power failure(s), earthquakes and other natural disasters. The terms of any Customer purchase order, invoice, or other similar document are null and void. The parties may sign this Agreement in several counterparts, each of which will be deemed an original but all of which together will constitute one instrument. This Agreement will be considered signed when the signature of a party is delivered by scanned image (e.g. as a "portable document format" or "PDF" file) as an attachment to electronic mail (email), and any such scanned signature is to be treated in all respects as having the same effect as an original signature, except that either party may require the exchange of original signatures.

Exhibit B



Re: Sole Publisher/Sole Source Verification

10/1/2023

This is in response to any questions or concerns regarding the purchase and/or subscription of The Gale Group, Inc. (Gale, a part of Cengage Learning) titles and databases.

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Thank you for your interest in Thorndike Press. Please contact me if I can be of any further assistance.

Regards,

Amber Cummings

Amber Cummings
Thorndike Press, a part of Cengage Learning
27555 Executive Drive, Farmington Hills MI 48331





October 01, 2023

Fort Bend County Libraries
1003 Golfview Dr,
Richmond, Texas 77469

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