



21-00124

BUSINESS INTERNET SERVICES AGREEMENT

Beaver Valley Community School

Vendor: TBA



SHARED PURCHASING SERVICE CONSORTIUM OF GREY-BRUCE

Bluewater District School Board
Bruce-Grey Catholic District School Board



799 - 16th Avenue, Hanover, Ontario N4N 3A1 Telephone (519) 364-5820 Fax (519) 364-5828

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Business Internet Services Agreement 21-00124

Made as of the 1st day of April 2021

B E T W E E N:

BLUEWATER DISTRICT SCHOOL BOARD

by way of and through its authorized and appointed agent and trustee the
SHARED PURCHASING SERVICE CONSORTIUM OF GREY-BRUCE
(each and collectively the "**Board**")

and

ISP

a company incorporated under the laws of Canada ("**ISP**")



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Recitals:

ISP carries on the business of providing Fibre Broadband Internet Service and submitted a tender under RFT 21-00124, as amended from time to time (the “**Tender**”) to the Board for the construction, deployment, operation and maintenance of FIBRE high speed broadband internet services at:

Beaver Valley Community School
189 Bruce St S
Thornbury Ontario
N0H 2P0
(519) 599-5991

Municipality: Town of Blue Mountains
Latitude/ Longitude 44.553148/ 80.460667

This Agreement may be extended at any time subject to reasonable notice and mutual agreement between both parties with respect to an extension to accommodate any additional Board locations into this Agreement. All existing terms and conditions of RFT 21-00124 including the board(s) Standard Terms and Conditions will apply. In the event of an inconsistency between the terms of the RFT and the Agreement, the terms of the RFT shall prevail.

The Board wishes to accept the Tender and to appoint **ISP** to provide FIBRE high speed broadband internet service and the **ISP** has agreed to accept such appointment all on the terms and conditions herein contained.

The Terms and Conditions of RFT 21-00124 and this agreement SLA 21-00124 including the Board(s) Standard Terms and Conditions shall take precedence where an inconsistency exists with the Internet Service Provider Terms and Conditions.



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IN CONSIDERATION of the mutual covenants contained herein, the parties hereto agree as follows:

1. Term of Agreement

- a) The installation portion of this Agreement will commence with a board issued purchase order to the successful ISP authorizing the work detailed herein.
- b) The Service Portion of this Agreement will commence upon the completion date of installation and shall continue in full force for 2 years following the in-service date unless terminated as hereinafter provided.
- c) Following the Initial Term, the Board and ISP shall have the option to renew this Agreement for two (2) additional periods of two (2) years, subject to the parties reaching mutually acceptable financial terms. The terms and conditions of each contract year would remain the same as for the initial contract period.
- d) Notwithstanding that this Agreement has not been renewed or replaced in writing by the parties, if the Initial Term or the then current renewal term of this Agreement expires and **ISP** continues to provide the Fibre broadband internet Services, then, unless otherwise agreed to in writing by the parties, the terms and conditions of this Agreement, other than Subsection 19. Termination, shall continue in full force and effect until the earlier of:
 - (i) the effective date of a new agreement entered into by the parties for a new term for the provision of the Internet Services; or
 - (ii) Ninety (90) days after the date on which either the Board or ISP provides written notice of termination of this Agreement to the other.

2. Service Description

Provide a high-speed Fibre broadband internet connection, IP addresses and internet traffic services to a single demarcation point meeting service specifications for the awarded location. (as amended by the parties from time to time).

- a) Provide a consistent minimum download speed of 1 megabit per second per student.
- b) Provide real-time access to traffic data via a web interface.



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3. Service Level Targets

Services should be compliant with all Canadian Telecom Regulatory Policies

Service shall be full duplex with a minimum speed ratio of 10:1 (down/up) AND a minimum upstream speed of 20 Mbps. (This translates to a 20% ratio on a 100 Mbps circuit and a 10% ratio on a 200 Mbps circuit.) Symmetric upload/download is not mandatory at every awarded site.

Network traffic providing unlimited usage (i.e. uncompressed, unshared, no throttling, no bandwidth data caps or extra charges). Of particular interest to the boards is IPSEC traffic between the school sites and the board administration offices. The boards' administration offices should not be throttled.

Offer data services that are neutral with respect to applications, websites, type of use, and type of end-user device or standard commercial device.

High-Speed Broadband Network latency not to exceed 50 milliseconds. Latency means the average round trip delay in milliseconds of a packet over the Network in a calendar month. A low latency is required for high-quality real-time applications.

Packet Loss 0%. Packet Loss means a metric defined as the average monthly percentage of packets sent that will be lost in transmission over the Network. Packet loss is the failure of a packet to travel through the network to its destination. Internet traffic is carried as Internet Protocol packets. Due to network congestion or impairments, some packets do not reach their destination intact. These are considered to be lost packets.

Achieve consistent speed tests at 85% of the stated bandwidth.

Mean Time to Repair (MTTR) maximum 4 hours. MTTR is defined as the average time to restore the Service during an Outage. The MTTR is calculated by taking a monthly average of the time taken to repair all trouble tickets for Outages on a specific circuit. The length of each Outage on a specific circuit is totaled at the end of each billing month and divided by the corresponding number of Outages for that circuit.

Uptime calculation does not include scheduled maintenance. Acceptable Scheduled Maintenance hours are midnight to 6 a.m.

Network Availability is expected to be highly stable and reliable, with overall uptime of not



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less than 99.5% of the time each calendar month

Service providers shall be capable of future expansion to meet or exceed the future requirements of the board.

Internet Service provider shall be responsible for equipment refresh and building for future capacity where equipment is owned by the Internet Service Provider.

4. Monthly Testing and Statistics Reporting

- a) Provide at a minimum monthly testing and statistics reports. Testing and Reporting protocols to be mutually agreed upon with the board representative from the ICT department. A financial penalty for results not meeting agreed upon standards of performance shall be enforced. The board shall pay a reduced monthly rate consistent with the percentage (%) of service below the targeted levels.
- b) Provide on-call customer service and support for the duration of the agreement at a minimum of 12 hours per day 5 days per week. Provide sufficient qualified staff, vehicles and diagnostic equipment dedicated to respond quickly to network outages and other issues. No single outage shall exceed 4 hours from the time the initial outage reporting is made to the internet service provider and the service has been restored to full capacity except under conditions beyond the control of the ISP.

5. Maintenance

The Internet Service Provider shall pre-arrange access to all board locations through the ICT Department. A Work Approval Form shall be completed and submitted to the board project representative prior to any work being performed on Board Property. (See Appendix B)

The Internet Service Provider (ISP) may interrupt the Service to perform routine system maintenance, in which case, the ISP will use commercially reasonable efforts to give the Board sufficient notice prior to the performance of such maintenance and will schedule such maintenance during non-peak hours (midnight to 6:00 am local time).

A minimum of 48 hours notice is required for planned maintenance.

6. Acceptable Use Policy

The board(s) have acceptable use policies in place for all users. Please refer to the following Board Policies and Procedures for complete details.

[BWDSB Policies and Procedures](#)



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Bluewater District School Board AP2312-D and BP2312-D Network Resources – Limited Personal Use

The ISP will immediately notify the board if it suspects Improper Use, violation of the Acceptable Use Policy, to protect against fraud or the commission of suspected illegal activities, or to otherwise protect its personnel, agents, facilities or services.

7. Vendor Responsibilities

- a) The Internet Service Provider (ISP) will provide all labour, materials and equipment to provide Fibre broadband internet service to a single demarcation point within each location. All materials and equipment shall be in compliance with all policies, laws and regulations in the industry and conform to the latest minimum current standards.
- b) The Internet Service Provider shall pre-arrange access to all board locations through the ICT Department and/or Facilities Services & Plant Departments. A minimum of 48 hours notice is required for all planned construction and installation services.
- c) It will be mandatory for all visitors to the school/property to sign-in/out at the Reception Desk of each location and to follow the posted COVID 19 protocols for visitors to the building/site **as per the Grey-Bruce Public Health Guidelines and all Board Policies**. Masks are required for entry into all Board facilities and will be provided, by the Board, should any Contractor not have a mask which meets the requirements outlined by Grey-Bruce Public Health. Contractors will also be required to sanitize upon entry and exit of the school. All social distancing protocols must be maintained at all times during the site meeting.
- d) The Internet Service Provider (ISP) will be responsible to compensate the board for any and all damages including wear and tear to board property resulting from the installation/attachment and on-going maintenance of ISP owned equipment on board buildings and property for the duration of the contract.
- e) The Internet Service Provider (ISP) will document and notify Facility Services and Plant Departments of existing damage or impairments prior to commencing work on board property.
- f) A Work Approval Form shall be completed in detail with supporting documentation and specifications. The completed Work Approval Form must be submitted to the board project representative prior to any work being performed on Board Property. (Sample:



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Appendix A)

- g) It is expected that the internet service provider upon commencing the project will work promptly and efficiently to complete all the stipulated components included in the Scope of Work and reasonably within the timeframe submitted on in the tender.
- h) The ISP shall provide weekly updates via email to the project representative as to the status of the project timeframe and completion dates. The ISP shall notify the project representative immediately of any situation which shall delay the project for a period of more than 7 business days.
- i) The internet service provider shall not vacate the site without written clearance from the board's Project Representative(s).
- j) The internet service provider shall be responsible for the detailed layout of the work under the supervision of the board Project Representative(s).
- k) Throughout the duration of the contract, the internet service provider shall have due regard to emergency access, traffic safety (both vehicular and pedestrian) and flow on all roadways and place appropriate signage and have sufficient flag persons available during excavation, installation, mobilization and demobilization of equipment where necessary. If necessary, the vendor's traffic control plan must correspond to Ontario Traffic Manual Book 7 safety measures.
- l) Working hours must conform to all applicable Municipal By-laws. On-site working hours at each board location to be approved prior to commencement of work by the board representative. On-site work must not interfere with staff/student entry or exit to the location or use of school grounds.
- m) The Internet Service Provider will keep all adjacent grounds, roadways and walkways free of debris, mud and dust at all times and by methods acceptable to the Owner and the Project Representative. This cost is included in the overall Contract Price and is not considered an extra.
- n) Before commencing work, the Internet Service Provider shall at his cost establish the exact location, elevation and extent of existing services in the area of work and notify the board project representative(s) of all findings. The ISP shall notify the project representative immediately of any expense which will potentially change the final project



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cost as submitted in the RFT 21-00124.

- o) The Internet Service Provider will obtain all locates for telephone, gas, water, sewer, hydro and provide documentation pertaining to the locates to the board project representative prior to commencement of work.
- p) The Internet Service Provider shall comply with all the federal, provincial and municipal laws, including those dealing with employer-employee relations such as, but not limited to, the Employment Standards Act, the Unemployment Insurance Act, The Human Rights Codes, 1981, and any laws relating to health and occupational safety. The bidder will upon request of the Board(s), provide in writing confirmation of compliance to above legislation and any applicable Ministry policies and procedures.
- q) The Internet Service Provider shall obtain all permits, licenses, and approvals required in connection with the supply of the Services. The costs of obtaining such permits, licenses, and approvals shall be the responsibility of, and shall be paid for by, the vendor.
- r) If a vendor is required by Applicable Laws to hold or obtain a specific permit, license, or approval to carry on an activity contemplated in its Tender or in the Contract, neither acceptance of the Tender nor execution of the Contract by the BOARD(S) shall be considered an approval by the BOARD(S) for the Bidder to carry on such activity without the requisite permit, license, or approval.
- s) The Board is a drug, tobacco and alcohol free workplaces. This includes all facilities, properties and any vehicle on Board property. All on-site workers shall follow all Board policies and safety regulations.

8. Board Responsibilities

- a) Supply and install all equipment after the demarcation point at each location. The demarcation point will be located on Board property.
- b) Any construction required beyond the agreed upon demarcation point of the ISP's network is the responsibility of the Board.
- c) The board will provide power and un-interrupted power supply (UPS) to equipment inside the building at each site.



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9. Access Rights

The Board shall become owner of all Fibre Optic cable installed on Board Property.

The board(s) shall provide access to the premises including interior and exterior equipment owned by the ISP. The ISP employee/technician will sign in at Reception or Main Office at each site and provide identification upon request.

In the event of an outage or emergency situation, the ISP shall be granted immediate access to restore or remedy Service.

For other access requests the ISP shall upon reasonable notice (minimum 48 hours) make inspections, tests, installations and adjustments as it deems necessary for the operation of the services.

The board shall be responsible for equipment refresh and building for future capacity where equipment is owned by the board.

The board and the internet service provider will work collaboratively to achieve the objectives set out in RFT21-00124 in the timeframes stipulated and for the duration of the contract. The board will provide a project representative who will be the successful internet service provider's main point of contact for this project.

The board technical representative who will be the main point of contract for this contract will be:

Mike Savage, Assistant Manager Information Communication Technology
EMAIL: mike_savage@bwdsb.on.ca
Phone: 519-363-2014

10. Confidential and Proprietary Information

- a) During the term of the Agreement, the successful Internet Services Provider or personnel employed by the Internet Service Provider may have access to or become privy to information that the Board regards as sensitive or that is subject to information and privacy legislation or the Board's policies, including the Agreement. The Internet Services Provider and each one of its employees shall not use or disclose any such confidential information directly or indirectly, during or subsequent to the term of this Agreement.
- b) During the term of this Agreement, the Board may have access to or become acquainted



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with Proprietary and confidential information used in the operation of Internet Services Provider. The Board shall not and shall instruct its employees not to use or disclose the terms of the Agreement or any such proprietary or confidential information directly or indirectly during or subsequent to the term of this Agreement.

11. Financial Arrangements

Both parties agree to the financial arrangements as contained in the following table.

Download 1 Mbps	Upload 10:1	Network Traffic	Implementation & Time Frame Business Days	Monthly Fee Year 1	Monthly Fee Year 2

- a) Fees and Pricing shall be net, FOB each location, in Canadian funds, and exclusive of the Harmonized Sales Tax (HST).
- b) Fees listed shall be firm for a period of two years.
- c) A purchase order will be issued to the Internet Service Provider(s) upon commencement of the contract.
- d) A blanket purchase order will also be issued annually in September for the monthly service fees for the duration of the contract. The purchase order number must be referenced on all Invoices issued by the Vendor to the Board for monthly service fees.
- e) Invoices submitted to Bluewater District School Board must quote the purchase order number and must be submitted, by the Internet Services Provider, to the Bluewater Education Centre Attention: Accounts Payable at P.O. Box 190 351 1st Ave N. Chesley, ON N0G 1L0 or e-mailed to accountspayable@bwdsb.on.ca

12. Warranty

- a) The Internet Services Provider warrants its work and/or purchased equipment for a period of not less than one (1) year from completion, installation or supply against all defects



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and deficiencies in manufacture, workmanship and installation.

- b) The Internet Services Provider shall promptly remedy or replace any defect or deficiency, in the goods, services or installation as solely determined by the Board, immediately upon notice from the Board and at no cost to the Board. Should the successful Internet Services Provider fail to remedy any defect or deficiency promptly with a reasonable time after notice to do so, the Board may remedy the defect or deficiency, at the successful Internet Provider's cost.

13. Contractor Performance

- a) The Board(s) will monitor contractor performance throughout the life of the contract. Should the Board(s) decide, in its sole and unfettered discretion, that contractor performance is not meeting the requirements of the contract, proper written notice of non-performance will be provided to the contractor to address and/or remedy any and all performance issues.
- b) If a second notice of non-performance is issued, whether related to the same default or as a result of a separate occurrence, the Board(s) reserves the right to exclude the contractor from submitting bids on future bid opportunities for a period not less than two (2) successive years from the date of the second notice or,
- c) The board may decide to terminate the Contract in its entirety for failure to perform contracted obligations due to, but not limited to, the following situations:
- Multiple extensions of milestone or completion dates requested.
 - Repeated instances of substandard quality.
 - Prices increased beyond that of the general industry standard or by the Terms outlined in the Agreement.
 - Failure to provide adequate service to the Board.
 - Failure to meet the requirements of the Agreement.
 - Failure to maintain a safe work environment.
 - Failure to provide sufficient forces to satisfy the expectations of the Board.
 - Failure to follow and uphold Board Policy and Procedure.



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14. Condonation Not a Waiver

Any failure by the Board to insist in one (1) or more instances on strict performance by the Contractor of any of the terms or conditions of the Contract shall not be construed as a waiver by the Board of the right to require strict performance of any such terms or conditions, and the obligations of the Contractor with respect to such performance shall continue in full force and effect.

15. Health & Safety

The regulations of the Occupational Health & Safety Act, The Highway Traffic Act, WHMIS 2015 and all other applicable laws will govern this agreement. The contractor(s) will ensure adherence to these safety standards by all staff.

16. COVID-19 Business Interruption

- a) In response to curtail the spread of the infectious disease Covid-19, the Province of Ontario may at any time issue the mandatory closure regulation of the Emergency Management and Civil Protection Act to all businesses in Ontario. All but essential workplaces and services are required to cease operations.
- b) Due to the uncertainty regarding the interpretation of essential construction work and services permitted during any potential mandatory closures, and the broader uncertainty regarding the effect of Covid-19 on the Board's resources, the execution of the Board's contract documents and/or the dates and time of day when the work is anticipated to commence and be completed are subject to change at the Board's sole discretion.
- c) Execution of this Agreement is acknowledgment that you will be able to carry out the works as specified during a COVID-19 Business Interruption.

17. Commercial General Liability Insurance

The Contractor, at its own cost and expense, will put into effect and maintain for the duration of this contract all necessary and appropriate insurance for delivering the services outlined in this RFT.

- a) The Contractor shall obtain and/or maintain (at minimum), at their own expense, the following policy or policies of:
 - Commercial General Liability Insurance with a limit of not less than \$2,000,000 per occurrence with an aggregate limit of \$5,000,000 or such greater amount as the Board may reasonably require
 - Professional Liability Insurance with a limit of not less than \$2,000,000 per occurrence with an aggregate limit of \$5,000,000 or such greater amount as the Board may reasonably require



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- Automobile Liability Insurance for owned, hired, and non-owned vehicles with an inclusive limit of not less than \$2,000,000 per occurrence or such greater amount as the Board may reasonably require

The policy or policies will remain in effect for the duration of this contract and shall include the following:

- the BWDSB and the BGCDSB named as additional insured
 - 30 days written notice prior to any change and/or cancellation
- b) If the Board, acting reasonably requires the amount of coverage increased, if it requires the Contractor to obtain other special insurance or if it requires any policy to be extended in respect to an assignment, then the Contractor shall obtain such extended, increased or special insurance at their own expense.
- c) The contractor agrees to indemnify, hold harmless and defend the Board from and against any and all liability for loss, damage and expense, which the Board may suffer or for which the Board may be held liable by reason or injury (including death) or damage to any property arising out of negligent or willful acts on the part of the successful internet service provider or any of its representatives or employees or subcontractors in the execution of the work performed or from defects in the equipment supplied or by way of the ownership or operation of a vehicle.

18. Work Place Safety and Insurance Board (WSIB)

- a) The Contractor shall, at their own expense, obtain and maintain Workplace Safety and Insurance Board (WSIB) coverage for their employees as required by Workplace Safety and Insurance Act.
- b) Internet Service Providers who are required to carry WSIB coverage under the legislation must be eligible for a Certificate of Clearance from WSIB upon acceptance of the bid, prior to commencing any work.

19. Education Act (Section 217)

The Contractor represents and warrants that it has not employed, and that it will not during the Term of the Contract employ, any teacher, supervisory officer or other employee of an Ontario District School Board or of the Ontario Ministry of Education to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario District School Board, Provincial School or Teachers' College, or to any pupil enrolled therein, and that it has not given or paid, and will not during the Term of Agreement give or pay, directly or indirectly,



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compensation to any such teacher, supervisory officer or employee for such purpose where such employment or compensation would place the member of faculty or employee in a Conflict of Interest with the School Board by which he or she is employed.

20. AODA

- a) The Board is committed to the highest possible standards for accessibility. The Contractor must be capable of recommending and delivering, as appropriate, accessibility consistent with the Ontario Human Rights Code ("OHRC"), the Ontarians with Disabilities Act, 2001 ("ODA") and the Accessibility for Ontarians with Disabilities Act ("AODA") and their respective regulations in order to achieve accessibility of Ontarians with disabilities.
- b) Proponents are required to comply with the Board's accessibility standards, policies, practices and procedures, as same may be in effect during the terms of the Agreement and apply to the goods and services to be provided by the Proponent.
- c) In accordance with Ontario Regulation 429-07 made under the AODA (Accessibility Standards for Customer Service), the Board has established policies, practices and procedures governing the provision of its goods and services to persons with disabilities. These policies, practices and procedures are available for review at:

[BWDSB Accessibility Standards](#)

21. Designated Substances

- a) Designated Substances, as listed in Regulation 490/09 made under the Occupational Health and Safety Act (Ontario), including asbestos, lead, mercury, silica and others, are known to exist within board facilities.
- b) Asbestos is the most common designated substance in BWDSB and BGCDSB facilities. It is the responsibility of all Contractors and Vendors to make themselves aware of the Board's procedure for working near Asbestos.
- c) It is the responsibility of all Contractors and Vendors to make known to themselves where Asbestos designated substance occurs in each building and to ensure that the health and safety of their workers, our staff and students is not jeopardized by making contact with any Asbestos and/or other designated substance before, during or after any repair, installation, alteration or renovation.
- d) It is a requirement that all Contractors/Vendors coming on site make themselves aware of the location and contents of the Asbestos Inventory Log Book (when applicable) and



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the Ontario Regulations regarding Designated Substances.

22. Mutual Indemnification and Limitation on Liability

Mutual Indemnification: Each party shall indemnify, defend and hold harmless the other and each of their respective servants, employees and agents from and against all actions, suits, claims, demands, losses, costs, charges, damages and expenses incurred, sustained or claimed, including reasonable legal fees, arising out of or resulting from claims or actions for bodily injury, death, sickness, property damage, or other injury or damages caused by any negligent act or omission or breach by the indemnifying party or its employees or agents (except to the extent caused by the negligent act or omission or breach of the other party, or its employees or agents).

Notification of an event giving rise to an indemnification claim ("Notice") must (a) be received by the indemnifying party on or by the earlier of a date which is thirty (30) days subsequent to the date on which such event was or should have been discovered or ninety (90) days subsequent to the effective termination date of this Agreement, and (b) include a brief factual summary of the damage and cause thereof. The validity of an indemnification claim is expressly subject to and conditioned upon its compliance with the Notice provisions hereunder.

The parties agree that the indemnity contained herein shall survive termination of this Agreement and shall be the sole remedy of each party with respect to the subject matter of this Agreement, whether in contract or tort, save and except for any remedies available in the event of any claims arising out of Confidential and Proprietary Information.

Limitation on Liability: Notwithstanding any other term contained in this Agreement, neither party shall be liable for any special, indirect, consequential, punitive or other non-foreseeable damages, including without limitation, any economic loss or loss of profit, whether such claim or action is in contract or tort.

23. Termination

Termination without Cause: Either party may terminate this Agreement on ninety (90) days prior written notice to the other party.

Termination for Cause: Should either party hereto default in any of its obligations or contravene any provision in this Agreement, the other party may serve written notice of such default or contravention on the party in default. If within ten (10) days of the date of receipt of such notification the party so notified does not remedy the default or cease the contravention, the party not in default may, in addition to any and all remedies available under



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all applicable laws, at its option:

- (i) remedy such default or contravention at the expense of the other party; or
- (ii) terminate this Agreement by giving **Sixty (60)** days written notice of termination to the other party.

Immediate Termination: Either party may terminate this Agreement immediately in the event that:

- (i) the other party becomes insolvent or unable to pay its debts as they become due;
- (ii) the other party ceases to do business as a going concern;
- (iii) the other party makes an assignment for the benefit of creditors, applies to or petitions any tribunal for the appointment of a custodian, receiver or trustee for itself or any substantial part of its assets, or commences any proceeding with respect to itself under any bankruptcy, reorganization, readjustment of debt, insolvency, receivership, dissolution or liquidation law or statute of any jurisdiction, or if it files any such application or petition, or if such proceeding is commenced against a party; or
- (iv) such party becomes subject to an Event of Force Majeure, as defined in Section 27 (Force Majeure) of this Agreement, which continues for more than a period of twenty (20) days.

Consequences of Termination:

- (i) Termination of this Agreement shall not operate to limit, reduce, cancel, or otherwise modify any obligations then accrued or unpaid.
- (ii) In the event of the termination of this Agreement, **Internet Service Provider** shall furnish the Board with the usual statements and other documents as at the date of termination and any monies owing by one party to the other shall be paid within ten (10) business days.
- (iii) During the term of the agreement, there could be closure of schools and/or areas of schools due to Accommodation Reviews. In the event this school is closed temporarily or permanently, the internet service provider shall continue to provide service and be bound by the terms of this contract until the board provides written notification to terminate service. The board will notify and discuss with the successful internet services provider of any such school closure and/or re-organization under this contract in writing 90 days prior to such changes taking effect.



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Bluewater District School Board
Bruce-Grey Catholic District School Board



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24. Survival of Obligations

All obligations of the parties which by their terms are intended, or are otherwise appropriate, to survive the termination of this Agreement, including Indemnification, Confidential and Proprietary Information, Termination, Survival, Independent Contractor and Dispute Resolution shall survive the cancellation, termination or expiration of this Agreement.

25. Independent Contractor

This Agreement is for a particular and non-exclusive service. The ISP shall have no power or authority to bind the Board or to assume or create any obligation or responsibility, express or implied, on the Board's behalf, or to hold itself out as an agent, employee or partner of the Board. Nothing in the SLA shall have the effect of creating an employment, partnership or Institution relationship between the Board and the ISP. For the purposes of this paragraph, the ISP includes any of its directors, officers, employees, agents, partners, affiliates, volunteers or the ISP's Subcontractors.

26. Licenses, Permits and Business and Property Taxes

Internet Services Provider shall arrange to acquire all licenses and permits of whatsoever nature required for the operation and maintenance of the Internet Services.

27. Force Majeure

- a) Delays in or failure of performance by either party under these terms and conditions shall not constitute default hereunder or give rise to any claim for damages if and to the extent caused by occurrences beyond the control of the party affected, including but not limited to decrees of Government, acts of God, strikes or other concerted acts by workers, inability to procure materials or labour, fires, floods, explosions, riots, war, rebellion, sabotage and atomic or nuclear incidents, but lack of finances shall in no event be deemed to be a cause beyond a party's control.
- b) In the event that performance of an Agreement, in the reasonable opinion of either party, is made impossible by force majeure, then either party shall notify the other in writing and the Board shall terminate the Agreement forthwith and without any further payments being made.
- c) The Board and the Internet Services Provider acknowledge that in March 2020 the World Health Organization declared a global pandemic of the virus leading to COVID-19. The Governments of Canada and the Province of Ontario responded to the pandemic with legislative amendments, controls, orders, requests of the public, and requests and requirements to the parties to change their activities in various ways (collectively, the "Governmental Response"). It is uncertain how long the pandemic, and the related



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Governmental Response, will continue, and it is unknown whether there may be a resurgence of the virus leading to COVID-19 or any mutation thereof (collectively, the "Virus") and resulting or supplementary renewed Government Response.

- d) Without limiting the foregoing paragraphs, neither the Board nor the successful Contractor shall be liable to the other or be deemed to be in breach of this Contract for any default or delay in rendering performance arising out of: (i) the continued spread of the Virus; and (ii) the continuation of or renewed Governmental Response to control the spread of the Virus.
- e) Dates or times of performance shall be extended to the extent of delays excused by this clause, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay shall, so far as practicable, use appropriate efforts to minimize and mitigate the extent, effect and period of any such delay or non-performance.
- f) Further to the Proponent's covenants and agreements set out above, and notwithstanding any provisions in the Contract in respect of force majeure events, the successful Contractor hereby confirms that it has considered the potential implications of the COVID-19 pandemic, and its ancillary effects, including implications of health protection and state of emergency measures and restrictions put in place by Federal, Provincial, and Municipal Governments, and other public authorities, and has taken reasonable measures to assess foreseeable and potential challenges associated with performance of the Contract and delivery of the Work, including, but not limited to, challenges associated with shortages of or delays in obtaining materials, equipment and labour forces. The successful Contractor further confirms that its labour forces are available to commence the Work; that the materials and equipment required for the delivery of the Work will be available per standard production and delivery timelines without any undue delay due to the implications of the COVID-19 pandemic; and that the successful Contractor has put in place any necessary contingency plans to materially mitigate or negate the effects of the COVID-19 pandemic on its ability to perform the Work in accordance with the requirements of the Contract.

28. Board Consent

Whenever pursuant to the terms this Agreement the consent, approval or decision of the Board is required, Internet Services Provider shall be entitled to rely on a letter or email from the SPSCGB under direction of the board and acting as an authorized representative stating that such consent, approval or decision has been given by the Board and such letter shall not be unreasonably withheld or delayed. Any such consent, approval or decision given by the Board shall not, in any way, amend the terms of this Agreement.



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29. Enforcement

If the Internet Services Provider or the Board deems it necessary to enforce this Agreement, then either Internet Services Provider or the Board shall pay to the other upon demand all costs and expenses incurred by the other in connection with such enforcement, including legal fees.

30. Dispute Resolution

The Parties shall attempt amicably to adjust and resolve any disagreement or dispute which may arise between them regarding the interpretation, the performance of or the failure to perform under this Agreement by consulting and negotiating with each other in good faith and attempting to reach a just and equitable solution satisfactory to both parties.

31. Arbitration or Mediation:

In the event that any dispute, controversy, claim or alleged breach respecting this Agreement (each "Dispute") continues for a period greater than thirty (30) days, the Dispute shall be submitted to arbitration. The arbitration shall be held in Grey or Bruce Counties in the English language and shall be conducted in accordance with the Arbitration Act of Ontario except that the arbitration shall be conducted by either (a) an arbitrator selected by agreement of both parties or (b) if the parties are unable to agree on the choice of an arbitrator, by an arbitrator appointed by a Justice of the Ontario Court (General Division). The decision of the arbitrator shall be final and binding upon the parties and the expense of the arbitration shall be paid as the arbitrator determines

32. Set-Off

Unless otherwise provided for specifically in this Agreement, neither party may deduct, set-off, or apply all or part of any such party's payment obligations against any sums due to such party from the other party.

33. Assignment and Subcontracting

No party may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. With the exception that the Board consents in advance to the assignment by Internet Services Provider of this Agreement to a subsidiary or affiliate as such terms are defined in the Canada Business Corporations Act. The Board confirms that, in the event of any assignment by the Internet Services Provider of its obligations hereunder and the assumption by the assignee of all of Internet Services Provider's said obligations, Internet Services Provider's obligations towards the Board under this Agreement shall be terminated and released. This Agreement shall be binding upon and ensure to the benefit of the successors and assigns of the Board and Internet Services Provider.



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Internet Services Provider shall have the right to subcontract all or part of the Internet Services to a third party subcontractor with the prior written consent of the Board, such consent not to be unreasonably withheld or delayed. Provided that if Internet Services Provider assigns this Agreement to a subsidiary or affiliate as such terms are defined in the Canada Business Corporations Act, then prior to Internet Services Provider being released from its obligations hereunder, the subsidiary or affiliate shall sign an Agreement in a form satisfactory to counsel for the Board agreeing to be bound by the terms hereof.

34. Signatures – Facsimile and Counterparts

Agreement to, and acceptance of, this Agreement may be made and evidenced by facsimile signature or in an electronic form evidencing signatures of both parties hereto. This Agreement may be executed by the parties in separate counterparts each of which, when so executed and delivered, shall be deemed to constitute an original but all of which together shall constitute one and the same agreement.

35. Governing Law

The laws of the Province of Ontario and the applicable laws of Canada shall govern this Agreement.

36. Consortium Authority

The Shared Purchasing Service Consortium of Grey-Bruce, as agent and trustee for the Board, has the full, valid and binding authority to negotiate and accept the terms and conditions of and to execute this Agreement on behalf of each Board under signed authorization of the Superintendent of Business Services of each board.

The ISP shall recognize the SPSCGB as the only authorized agent to modify or terminate this agreement on behalf of the Board(s).



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37. Authorization

The parties hereto hereby execute this Agreement by the hands of their proper officers duly authorized in that behalf.

BLUEWATER DISTRICT SCHOOL BOARD

through its authorized agent and representative the Shared Purchasing Service Consortium of Grey-Bruce

Date

Per: _____

Name: Rob Cummings

Title: Superintendent of Business Services

BWDSB

ISP

Date

Per: _____

Name:

Title:



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Work Approval Form – School Board Property

This form must be submitted and approval signatures obtained prior to any work being performed on Board Property and/or within any Board building on behalf of any Service Provider for purposes of installing, repairing and/or modifying equipment. This can include but not limited to such work as: cabling, conduit, electrical wiring, hanging fixtures, drilling, painting, plumbing, excavating, grinding, cutting, sanding and any/all other such related work.

Company Name:			
Requestor Name:		Requestor Phone:	
Requestor Signature:		Requestor Email:	
School Name:		School Location:	
Project Start Date:		Estimated Project Completion Date:	

Work Required – Broadband Internet Installation

Specify clearly the details and description of all work required (include the location within the building, attach supporting paperwork if more space required):. Please attach a copy of the site plan indicating the proposed route of installation and point of entry, and a floor plan indicating the route to be taken with the cable within the building, and the type of cable proposed to be installed.

Approvals

The following individuals must approve proposed work:

Title	Name (Please print clearly)	Signature	Date
1 Facilities			
2 Information Technology			