



Contract Number

SAP Number

San Bernardino County Library Department

Department Contract Representative	Melanie Orosco
Telephone Number	(909) 387-2257
Contractor	Children's Plus
Contractor Representative	Michael Beechin
Telephone Number	(708) 946-4100
Contract Term	Sept. 1, 2019 – August 31, 2024
Original Contract Amount	
Amendment Amount	
Total Contract Amount	
Cost Center	6400002600

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, the County of San Bernardino (County) desires to purchase youth library materials from Children's Plus, Inc., (Contractor) and utilize Contractor's materials processing service; and

WHEREAS, Contractor is the premier children's and young adult vendor for public libraries and schools, offering sole source products and services; and

WHEREAS, the County finds Contractor qualified to provide said products and services; and

WHEREAS, the County desires that such products and services be provided by Contractor and Contractor agrees to provide these products and services as set forth below;

NOW, THEREFORE, the County and Contractor mutually agree to the following terms and conditions:

A. RESERVED.

B. CONTRACTOR RESPONSIBILITIES

B.1 Contractor shall fulfill orders for products and/or services, placed by the County as described in section E of this Contract and according to the terms set forth in this section B.

Contractor acknowledges County shall place orders at its sole discretion, based on its need, and is under no obligation to place any minimum amount of orders pursuant to this Contract.

- B.2** Contractor shall invoice County for orders placed, as set forth in section F of this Contract.
- B.3** Any orders placed shall be subject to the provisions of this Contract, the County of San Bernardino Standard Purchase Order terms and conditions attached hereto as Attachment A and Contractor's terms and conditions, attached hereto as Attachment B. Contractor agrees to be bound by the same.
- B.4** The Contractor shall offer free full-service custom cataloging and processing, to include: highest quality labels and clear label protectors; customer spine labels with Accelerated Reader level for leveled books; custom character-driven spine labels for graphic novels; custom barcode labels including corresponding call number, author, and title; custom MARC records with item and branch indicators embedded for easy import to Polaris ILS; Mylar covers added to trade hardcovers; programmed RFID tags applied to all materials; clear RFID tags used when applied to back cover of books; and dedicated cataloging and physical processing teams to ensure quality and consistency;
- B.5** The Contractor shall provide a discount schedule as follows: 10% discount in addition to discounted prices shown on chlidrensplusinc.com. This results in a final discount between 10-40% depending on class of product; free shipping to branches; and free custom cataloging and processing as described above (valued at up to \$3 per unit);
- B.6** The Contractor shall provide access to millions of volumes in stock and quick access for additional stock as needed through its extensive network of publishers;
- B.7** The Contractor shall provide unique partnership approach to collection development at no cost to the County.
- B.8** The Contractor shall provide free drop shipping to all County library locations, and should any product become damaged in transit, Contractor shall replace the product at no cost to the County.
- B.9** The Contractor shall provide free full-service custom cataloging and processing.
- B.10** The Contractor shall process spine labels with Accelerated Reader level displayed in-line with call number.
- B.11** The Contractor shall provide prebound library books that have laminated covers that are protective and easy to clean. Each book will be assembled to the highest quality control specifications and will have round library corners to make titles less likely to snag and fray. Each book will also contain Davey Red label high density binder boards to provide durability and prevent loss of shape. Contractor shall use of the highest quality synthetic adhesive to increase longevity and resist mold.

C. GENERAL CONTRACT REQUIREMENTS

C.1 Recitals

The recitals set forth above are true and correct and incorporated herein by this reference.

C.2 Contract Amendments

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

C.3 Contract Assignability

Without the prior written consent of the County, the Contract is not assignable by Contractor either in whole or in part.

C.4 Contract Exclusivity

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

C.5 Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

C.6 Reserved.

C.7 Change of Address

Contractor shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

C.8 Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

C. 9 Compliance with County Policy

In performing the Services and while at any County facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all laws applicable to the County facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

County shall have the right to require Contractor's employees, agents, representatives and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Contract.

C.10 Confidentiality

Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

C.11 Primary Point of Contact

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

C.12 County Representative

The County Librarian or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If this contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

C.13 Reserved.

C. 14 Debarment and Suspension

Contractor certifies that neither it nor its principals or subcontracts is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Contractor further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

C.15 Reserved.

C.16 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

C.17 Employment Discrimination

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

C.18 Environmental Requirements

In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

C.19 Improper Influence

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

C.20 Improper Consideration

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

C.21 Informal Dispute Resolution

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

C.22 Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.23 Licenses, Permits and/or Certifications

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract.

C.24 Material Misstatement/Misrepresentation

If during the course of the administration of this Contract, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

C.25 Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

C.26 Nondisclosure

Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract;

or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

C.27 Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

C.28 Ownership of Documents

All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the County upon payment for services (and products, if applicable). All such items shall be delivered to County at the completion of work under the Contract, subject to the requirements of Section D–Term of the Contract. Unless otherwise directed by County, Contractor may retain copies of such items.

C.29 Participation Clause

The County desires that Municipalities, School Districts, and other Tax Districts within the County of San Bernardino requiring the same services provided herein may at their option and through the County Purchasing agent, avail themselves of this Contract. Upon notice, in writing, the Contractor agrees to the extension of the terms of a resultant contract with such governmental bodies as though they have been expressly identified in this bid, with the provisions that:

C.29.1 Such governmental body does not have and will not have in force any other contract for like purchases.

C.29.2 Such governmental body does not have under consideration for award any other bids or quotations for like purchases.

Such governmental body shall make purchases directly through and to the Contractor. The County will not be liable for any such purchase made between the Contractor and another governmental body who avails themselves of this contract.

C.30 Air, Water Pollution Control, Safety and Health

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

C.31 Records

Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract.

All records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

C.32 Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

C.33 Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County may be made or used without prior written approval of the County.

C.34 Representation of the County

In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

C.35 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

C.36 Subcontracting

Contractor shall obtain County's written consent, which County may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any subcontractors who may supply any part of the Services to County. At County's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the County, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County for its subcontractors and shall indemnify County for the actions or omissions of its subcontractors under the terms and conditions specified in Section G. All approved subcontractors shall be subject to the provisions of this Contract applicable to Contractor Personnel.

For any subcontractor, Contractor shall:

- 36.1** Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and
- 36.2** Ensure that the subcontractor follows County's reporting formats and procedures as specified by County.
- 36.3** Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities and C. General Contract Requirements.

Upon expiration or termination of this Contract for any reason, County will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with County.

C. 37 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

C.38 Termination for Convenience

The County and the Contractor each reserve the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the Contractor for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

C.39 Time of the Essence

Time is of the essence in performance of this Contract and of each of its provisions.

C.40 Venue

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

C.41 Conflict of Interest

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

C.42 Former County Administrative Officials

Contractor agrees to provide, or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

C.43 Disclosure of Criminal and Civil Procedures

The County reserves the right to request the information described herein from the Contractor. Failure to provide the information may result in a termination of the Contract. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The Contractor also may be

requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Contractor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

C.44 Reserved.

C.45 Reserved.

C.46 Reserved.

C.47 Reserved.

C. 48. Reserved.

D. TERM OF CONTRACT

This Contract is effective as of September 1, 2019 and expires August 31, 2024 but may be terminated earlier in accordance with provisions of this Contract.

E. COUNTY RESPONSIBILITIES

E.1 At its election, County shall place orders for products and services, according to the terms set forth in section B of this Contract, and issue a County Purchase Order for the same. County's Standard Purchase Order is attached hereto as Attachment A. Orders shall be placed at the sole discretion of County. County is not obligated to place any minimum number of orders for products and/or services.

E.2 County shall make payment as provided for in section F of this Contract.

E.3 Any orders placed shall be subject to the provisions of this Contract, the County of San Bernardino Standard Purchase Order terms and conditions attached hereto as Attachment A and Contractor's terms and conditions, attached hereto as Attachment B. County agrees to be bound by the same.

F. FISCAL PROVISIONS

- F.1** The maximum amount of payment under this Contract shall not exceed \$2,500,000 and shall be subject to availability of other funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.
- F.2** Price shall be set by Contractor, and as shown on www.childrensplusinc.com, subject to the agreed upon discounts as set forth in section B.5 of this Contract.
- F.2** No minimum amount of payment is guaranteed under this Contract.
- F.3** Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.
- F.4** County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.
- F.5** Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.
- F.6** Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.
- F.7** **Reserved.**
- F.8** Payment shall be made upon receipt of a County approved invoice. Payment shall be made no later than sixty (60) calendar days after receipt of a County approved invoice.

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

G.1 Indemnification

The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The Contractor indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

G.2 Additional Insured

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such

additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

G.3 Waiver of Subrogation Rights

The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

G.4 Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

G.5 Severability of Interests

The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.

G.6 Proof of Coverage

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

G.7 Acceptability of Insurance Carrier

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

G.8 Deductibles and Self-Insured Retention

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

G.9 Failure to Procure Coverage

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

G.10 Insurance Review

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee

is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

- G.11** The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

- G.11.1** Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

- G.11.2** Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
- Premises operations and mobile equipment.
 - Products and completed operations.
 - Broad form property damage (including completed operations).
 - Explosion, collapse and underground hazards.
 - Personal injury.
 - Contractual liability.
 - \$2,000,000 general aggregate limit.

- G.11.3** Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

G.11.4 Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

G.11.5 **Reserved.**

G.11.6 **Reserved.**

G.11.7 **Reserved.**

H. RIGHT TO MONITOR AND AUDIT

H.1 The County, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements established by the County.

H.2 All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under this Contract or until all pending County, State and Federal audits are completed, whichever is later.

I. RESERVED.

J. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

*County of San Bernardino
Library Department
777 East Rialto Avenue
San Bernardino, CA 92415-0035*

*Children's Plus Inc.
1387 Dutch American Way
Beecher, IL 90401*

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

K. ENTIRE AGREEMENT

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises,

negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

IN WITNESS WHEREOF, the County of San Bernardino and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

COUNTY OF SAN BERNARDINO

►
Curt Hagman, Chairman, Board of Supervisors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

~~Laura H. Welch~~ Lynna Moneill
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

Children's Plus, Inc.

(Print or type name of corporation, company, contractor, etc.)

By [Signature]
(Authorized signature - sign in blue ink)

Name Michael Beecher
(Print or type name of person signing contract)

Title Chief Operating Officer
(Print or Type)

Dated: 7/9/19

Address 1387 Dutch American Way
Beecher, IL 60401

FOR COUNTY USE ONLY

Approved as to Legal Form

► [Signature]
Katherine Hardy, Deputy County Counsel

Date 7/19/19

Reviewed for Contract Compliance

►

Date _____

Reviewed/Approved by Department

► [Signature]
Michael Jimenez, County Librarian

Date 7-19-2019

ATTACHMENT A
TERMS AND CONDITIONS

IF THE COUNTY OF SAN BERNARDINO BOARD OF SUPERVISORS (BOARD) HAS APPROVED A CONTRACT FOR THE GOODS AND/OR SERVICES BEING PROVIDED UNDER THIS PURCHASE ORDER, AND THE CONTRACT CONTAINS ADDITIONAL AND/OR DIFFERENT TERMS THAN THOSE LISTED IN THE PURCHASE ORDER, THE TERMS OF THE BOARD APPROVED CONTRACT WILL PREVAIL.

Providing goods and/or services pursuant to this Purchase Order reflects Vendor's acknowledgment of, and agreement to be bound by, the following Terms and Conditions:

1. **INVOICES:** Submit invoices in duplicate to billing address as shown on the front of the purchase order. Invoice each purchase order separately. Items on this purchase order must not be billed with those on other purchase orders. No charge for packing or drayage will be allowed except when specified on order and evidenced by a copy of the freight bill attached to the invoice. A freight bill WJ.1.U accompany invoices whenever freight charges are prepaid and added to the invoice. Purchase order number and consignee must be clearly shown on all invoices, shipping documents, shipments, correspondence, and related papers.
2. **PAYMENTS:** Payments shall be made, upon submission of itemized invoices in duplicate of the prices stipulated, for supplies delivered and accepted or service rendered and accepted, less deductions, if any, as herein provided. Payment on partial deliveries may be made when authorized in writing by the Purchasing Agent. If for any reason, an over-payment is made, we require prompt refund via your properly referenced check, in order that we can expedite clearing of the overpayment through our accounting system.
3. **DEFICIT REDUCTION ACT OF 2005, SECTION 6032 IMPLEMENTATION:** As a condition of payment for services, goods, supplies and merchandise provided to beneficiaries in the Medical Assistance Program (fMedi-Cal"), providers must comply with the False Claims Act Employee Training and Policy Requirements in 1902 (A) of the Social Security Act (42 USC 1396 (A) (68)), set forth in that subsection and as the Federal Secretary of Health and Human Services may specify.
4. **INSPECTION:** All materials and workmanship are subject to inspection and test by the County for compliance with specifications as included herein. In the event articles or services are defective or not in conformity with this order, the County shall have the right either to reject the items or require correction. Defective articles or services shall be removed from the County premises and/or corrected by and at the expense of the Vendor. Failure to inspect and accept or reject shall not relieve the Vendor of responsibility for compliance with specifications. Final acceptance shall be conclusive except as to latent defects, fraud, or such gross mistakes as amount to fraud.
5. **RESPONSIBILITY:** Unless otherwise specified, the Vendor shall be responsible for all items covered by this purchase order until delivered to the designated delivery point, and the Vendor shall bear

all risks as to items rejected or requiring correction after notice of such rejection or correction is given.

6. CHANGES: This purchase order may, at any time, by written order, be changed as to the materials or services to be furnished, quantities ordered, unit price, discount, delivery point or arrangements, terms, or any other matters affecting a valid order. In the event such change causes an increase or decrease in cost of performance hereunder, an equitable adjustment will be made for the cost, subject to the written approval of the Purchasing Agent. No change or other modification to this purchase order, by invoice, shipping documents or other communication, shall be binding upon the Purchasing Agent unless accepted in writing.

7. VARIATIONS-QUANTITIES No variation in the quality or quantity of any item called for by this purchase order shall be acceptable except pursuant to written change order so authorizing, and no change in cost shall be valid unless so ordered.

8. TERMINATION: This purchase order may be terminated in whole or in any part at any time by written notice to Vendor. Such termination shall be effective in the quantity, manner, and time specified in such notice and the County shall be liable at the stipulated price for only such materials and/or services as have been delivered, and/or rendered and accepted. The County shall not be liable for any excess costs arising out of such termination, and failure of the Vendor to cease delivery and/or work upon receipt of termination notice shall not occasion a claim for extra costs.

9. LIABILITY: The County shall not be responsible for any damages that may be claimed by reason of death or injury of the person of the Vendor's officers, agents, employees, invitees, or licensees, or for damage to any property of the Vendor or that may arise or result at any time because of personal injury or damage to property sustained by any other person or persons, which may have been caused or contributed to, proximately, by reason of, or in the course of carrying out this purchase order. The Vendor shall assume full responsibility for the result of any claim arising under this purchase order, and the Vendor shall indemnify, defend, and hold harmless the County, all officers and employees thereof, from all damages, costs, or expenses, in law or in equity, because of personal injury, property damage, or alleged or actual patent infringements, based on the performance of this purchase order.

10. DELAYS-DAMAGES: In the event the Vendor fails to perform this purchase order within the time specified, if any, or a reasonable time after placement of the order, the Purchasing Agent may, by written notice, order the Vendor to cease further deliveries and may hold the Vendor liable for any damage caused the County by reason of such delay. Periods of performance may be extended if the facts as to the cause of the delay justify such extension in the opinion of the Purchasing Agent.

11. COMPLIANCE: The articles covered by this purchase order or contract must conform to safety orders of OSHA, CALOSHA, and/or NIOSHA and applicable Safety Data Sheets.

12. ELECTRONIC FUNDS TRANSFERS: Vendor shall accept all payments from the County via electronic funds transfer (EFT) directly deposited into the Vendor's designated checking or other bank account. Vendor shall promptly comply with directions and accurately complete forms provided by the County required to process EFT payments.

13. CONTRACTOR'S LICENSE: Unless otherwise qualified, Vendor agrees for the period of any agreement formulated that a total price more than \$500.00 for any public work requires an active Contractor's License Number. It is the Vendor's responsibility to make sure that their license is active, valid and on file with the department to which the services are being provided. If Contractor is not licensed as required, Contractor will not be paid for any work performed in violation of this requirement.

14. INSURANCE: County self-insures goods upon title of goods being transferred to County. Prior to commencement of work, Certificates of Insurance shall be delivered and approved by the County Department to which products or services are being provided. Commencement of work prior to delivery and approval of Certificates of Insurance shall not act as a waiver of the Terms and Conditions attached hereto and may be treated as a material breach of this agreement. The required insurance policies shall have coverage limits of at least \$1,000,000.00 per claim or occurrence and a \$2,000,000.00 general aggregate. Additional or other insurance may be required by addendum.

15. PREVAILING WAGE: Where labor is required for public works as part of any requirements covered by this purchase order and as such is defined by the California Labor Code, Vendor shall pay no less than the applicable prevailing wages specified.

16. COMPLIANCE WITH LAWS: Vendor shall fully comply with all applicable provisions of federal, state and local laws, rules and regulations, and Vendor agrees to hold the County, its agents, officers and employees harmless from any and all liability, costs, including, but not limited to attorney's fees and damages resulting from failure of compliance.

17. NONDISCRIMINATION: By acceptance of this purchase order. Vendor certifies and agrees that all persons employed by it, its affiliates, subsidiaries or holding companies are and will be treated equally by it without regard to or because of race, religion, ancestry, national origin, disability or sex and in compliance with all anti-discrimination laws of the United States and the State of California. Vendor further certifies and agrees that it will deal with its subcontractors, bidders or vendors without regard to or because of race, religion, ancestry, national origin, disability or sex. If the County finds that the above provisions have been violated, the same shall constitute a material breach of contract and the County through the Purchasing Agent may determine

to cancel, terminate or suspend the purchase order. The parties agree that in the event the Vendor violates the anti-discrimination provisions of the purchase order, the County shall at its option and in lieu of cancellation, termination or suspension of this purchase order, be entitled to liquidated damages pursuant to California Civil Code section 1671 of the greater of ten percent (10%) of the purchase order amount or One Thousand Dollars (\$1000).

18. GOVERNING LAW AND VENUE: This purchase order shall be governed by and construed in accordance with the laws of the State of California. Vendor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this purchase order, and further agrees and consents that venue for any action shall be exclusively in the County of San Bernardino, California.

19. ASSIGNMENT AND DELEGATION: Vendor shall not assign its rights or delegate its duties under this purchase order without County's prior written authorization and any assignment or delegation without such authorization shall be null and void and shall constitute a material breach of this purchase order. The Purchasing Agent may immediately cancel or terminate the purchase order.

20. MOST FAVORED CUSTOMER: Vendor represents that the prices charged the County in this purchase order do not exceed existing selling prices to other customers for the same or substantially similar articles or services for comparable quantities under similar terms and conditions.

21. COVENANT AGAINST GRATUITIES: The offering of gifts, excluding token gifts of a promotional or advertising nature, or gratuities by the Vendor or any agent or representative of the Vendor is strictly prohibited. The Vendor warrants that no gratuities (in the form of entertainment, gifts or otherwise) were offered or given by the Vendor or any agent or representative of the Vendor, to any officer or employee of the County with a view toward securing this purchase order or favorable treatment with respect to any determination concerning this.

ATTACHMENT B



To whom it may concern,

Children's Plus truly values the partnership we have established with San Bernardino County Library. Our ability to customize collections, library processing, and delivery make us the premier children's and YA vendor for public libraries and schools. We have a proven track-record in providing quality, shelf-ready library materials to SBCL.

With almost 40 years invested in supporting the library community, we've built our business on a commitment to not just selling books, but cultivating relationships with our vendors, our publishers and our customers.

Children's Plus partners with SBCL under the following terms:

- FREE drop shipping directly to all SBCL locations
- Capability of invoicing by branch or by project, whichever SBCL prefers
- FREE full-service custom cataloging and processing
 - Highest quality labels and clear label protectors
 - Custom spine labels with Accelerated Reader level for leveled books
 - Custom, character-driven spine labels for graphic novels
 - Custom barcode labels including corresponding call number, author, and title
 - Custom MARC records with item and branch indicators embedded for easy import to Polaris ILS
 - Mylar covers added to trade hardcovers at no charge to SBCL
 - Programmed RFID tags applied to all materials at no charge to SBCL
 - Clear RFID tags used when applied to back cover of books
 - Dedicated cataloging and physical processing teams to ensure quality and consistency
- Discount schedule as follows:
 - 10% discount in addition to discounted prices as shown on childrensplusinc.com. This results in a final discount between 10-40% depending on class of product
 - FREE shipping to branches
 - FREE custom cataloging and processing as described above (valued at up to \$3 per unit)
- Millions of volumes in stock and quick access for additional stock as needed through our extensive network of publishers
- Orders are normally packed in dewey order for easy shelving unless directed otherwise. For example, SBCL Book Festival orders are boxed by series for easy display during events

1387 Dutch American Way Beecher Illinois 60401

Phone 800-230-1279 Fax 800-896-7213



Sole Source Products/Services

- Unique partnership approach to collection development at no cost to SBCL
- Processing spine label with Accelerated Reader level displayed in-line with call number
- CPI Prebound Library Books
 - Laminated covers are protective and easy to clean
 - Each book is assembled to the highest quality control specifications
 - Round library corners make titles less likely to snag and fray
 - Davey Red label high density binder boards add durability and prevents loss of shape
 - High quality synthetic adhesive increases longevity and resists mold

Our partnership with SBCL is truly unique. Children's Plus takes a hands-on and customized approach in curating unique collections for each opportunity and delivers materials shelf or event ready. We appreciate the opportunity to partner with San Bernardino County Library and look forward to servicing your libraries in the future.

Respectfully,

Michael Beechin, COO



Children's Plus, Inc.

1387 Dutch American Way Beecher Illinois 60401

Phone 800-230-1279 Fax 800-896-7213