

This Purchase Agreement is by and between Houghton Mifflin Harcourt Publishing Company (“HMH”) and **Livermore Valley Joint Unified School District** (“School/District”).

1. Definitions. As used herein, the following terms have the meaning set forth below:

A. **Agreement.** This Purchase Agreement, with all appendices, attachments, and exhibits, shall be the only terms and conditions applicable to the purchase of Products and/or subscriptions

B. **Product(s).** Books and/or subscriptions to software, support services, professional development products, materials and services that may acquire pursuant to this Agreement from HMH for its own use (as listed in the attached proposal Appendix A and incorporated by reference herein).

HMH and the School/District agree that any subscription to software made under this agreement, if any, is for the term(s) listed in Appendix A and its Exhibits. If the School/District wishes to extend any subscription or license term(s), a purchase order, change order, or amendment is to be negotiated for additional fees.

HMH and the School/District agree that any software subscribed to under the Agreement, if any, is to be hosted by or through HMH. Any HMH software product the School/District wishes to self-host would be considered a new transaction outside the scope of this Agreement and separate fees are to be negotiated. Self-hosted versions of many of HMH’s software products are not available for sale.

No additional purchases of any of the Products (other than in the quantities as listed in Appendix A) are covered by the Agreement. All such additional purchases by the School/District shall be at HMH’s then standard applicable price(s).

2. Purchase Authorization. School/District represents and warrants that it has complied with any and all of its own requirements necessary to authorize the execution of all Purchase Agreements with HMH and that the signing party(ies) is/are authorized to sign on behalf of and contractually bind the School/District without condition other than the terms of this Agreement.

3. Purchase/Price/Delivery/Payment.

A. This Agreement is entered into by and between School/District and HMH. School/District agrees to license and/or purchase Products identified on the attached proposal Appendix A, incorporated by reference in this Agreement, in the aggregate amount of **One hundred fifty-six thousand, two hundred twenty-six dollars, and forty-four cents (\$156,226.44)**. School/District is solely responsible for all purchase decisions, including ensuring the compatibility and suitability of all products and subscriptions. The School/District’s billing address is:

**Livermore Valley Joint Unified School District
685 E Jack London Blvd
Livermore, CA 94551**

B. The School/District hereunder shall pay all applicable local sales and use taxes and/or duties due on purchases. Proof of sales tax-exempt status must be on file with HMH for any order to be treated as a sales tax exempt transaction. If applicable, the School/Districts’ Tax Exemption Certificate Number: _____. Confirming copy of evidence of such status is attached hereto.

C. Payment terms under this Agreement are set out in Appendix B of this agreement. Invoices unpaid after Thirty (30) days from the payment dates in Appendix B shall accrue interest at a rate of 1.5% per month until paid. HMH shall have the right to suspend any service or product rights under until such time as all outstanding and overdue invoices are paid in full. HMH reserves the right to seek reimbursement for the costs of collection and attorneys’ fees in connection with overdue and unpaid invoices.

D. All payments to HMH should be sent to the following:

Mailed to:
Houghton Mifflin Harcourt Publishing
Company 14046 Collections Center Drive
Chicago, IL 60693

For overnight mail, use the same address and add the following information: Attention: Lockbox Manager Phone: (800) 376-2703

Bank Wire Transfers to:

Bank of America
100 Federal Street
Boston, MA 02110

Account Name: Houghton Mifflin
Harcourt Publishing Company
Account Number: 004602286354
ABA Routing #: 026009593
SWIFT Code: BOFAUS3N

ACH/EFT Transfers to:

Bank of America
100 Federal Street
Boston, MA 02110

Account Name: Houghton Mifflin
Harcourt Publishing Company
Account Number: 004602286354
ABA Routing #: 011000138

Any questions regarding remittance options, please contact HMH Accounts Receivable at: accounts.receivable@hmhco.com or 800-521-3185.

E. The pricing and extended payment terms outlined in this Agreement are based on receiving payment in the form of a check, ACH or Wire transfer.

4. Limited Warranty; Disclaimers.

Warranties for all Products purchased under this Agreement shall be provided "as is". HMH makes no other warranties with respect to the Products, either express or implied. HMH provides no representations or warranties that the School/District hardware or software environments and their configuration are

compatible or suitable for the operation of HMH Products in the School/District setting. HMH specifically and expressly disclaims any and all other warranties, including but not limited to the implied warranties of merchantability or fitness for a particular purpose or that any services provided hereunder shall be uninterrupted or error-free.

5. HMH Intellectual Property Rights;

Confidentiality. The intellectual property contained in the HMH Products is considered "Confidential and/or Proprietary Information" to HMH and are protected by copyright and other intellectual property rights. School/District, as an end user, is authorized to use HMH Products subject to the applicable trademark, copyright and other intellectual property, federal and state laws of the U.S.

6. Indemnification. To the extent allowed by law and subject to the right of School/District to raise the deferral of sovereign governmental or qualified immunity against 3rd party claims. School/District agrees to indemnify, defend and hold harmless HMH, its parent companies, subsidiaries, affiliates, directors, officers and employees from any third party claims, causes of action, damages, costs, liabilities or expenses that arise from a breach of this Agreement or from improper or unauthorized use, distribution and operation of the HMH Products.

7. Limitation of Liability. HMH SHALL NOT BE LIABLE TO SCHOOL/DISTRICT FOR ANY UNAUTHORIZED USE OF THE DIGITAL PRODUCTS, OTHER PRODUCTS OR ANY SERVICES FOR ANY PURPOSES OTHER THAN AS DESCRIBED IN THIS AGREEMENT. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR REVENUE. IN NO EVENT SHALL HMH'S TOTAL AGGREGATE LIABILITY IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE FEES PAID OR PAYABLE BY SCHOOL/DISTRICT DURING THE MOST RECENT TWELVE (12) MONTH PERIOD DURING THE TERM OF THIS AGREEMENT.

8. Term of Agreement. The terms in the attached proposal in Appendix A and Appendix B will govern the term of this Agreement and the scope of the license and use of Products.

9. Assignment. School/District shall not assign or otherwise transfer its rights or delegate its obligations hereunder without HMH's prior written consent. Any attempted assignment, transfer, or delegation without such consent shall be void. HMH may freely assign this Agreement, including any of the obligations and rights to payment set forth herein. Neither party shall have any right of set off in connection with rights and obligations associated with this Agreement.

10. Termination of Agreement.

A. HMH may terminate this Agreement with respect to another party or parties for uncured material breach by the other party or parties (in which case the Agreement will remain in effect with respect to HMH and the non-breaching parties through the remainder of the Term). In addition, any District may terminate this Agreement with respect to itself for uncured material breach by HMH of HMH's obligations hereunder to that District (in which case the Agreement will remain in effect with respect to HMH and any other parties not seeking termination of their rights and duties hereunder). To terminate the Agreement with respect to a breaching party, the non-breaching party shall provide written notice of breach to the breaching party, specifying in detail the breach itself and the grounds for such breach. The breaching party shall have sixty (60) days from receipt of the notification to cure said breach. Failure to make payments on invoices due shall constitute material breach of this Agreement. In the event the breach is not cured, the non-breaching party shall give the breaching party formal notification of termination of this Agreement. Upon said notice the due date of all invoices shall be accelerated such that they become due and payable as of the date of termination. The provisions of Sections 5 through 16, shall survive termination of this Agreement.

B. In addition, any District may terminate this Agreement after the first anniversary of the Effective Date, to take effect at the end of its then-current fiscal operating year, if the District does not receive budget approval from its governing authority in sufficient amounts to pay the next fiscal year's fees set forth in the District's Payment Plan. In the event of termination under this subsection, the District shall notify HMH promptly in writing upon denial of its budget request for such fees.

C. In the event of an early termination or non-renewal of this Agreement prior to the end of the Term of this Agreement, HMH shall retain all fees previously paid HMH hereunder, the license to the Products shall terminate effective as of the date of non-renewal or early termination with respect to the terminated District, and each terminated District shall promptly cease using the Products and return or destroy all files thereof to HMH. Upon HMH request, an officer of the District will provide written certification of the District's compliance with the foregoing provisions. HMH shall have no liability to a District or any third party in connection with any termination or suspension for breach of this Agreement.

In addition, each District shall pay HMH for all services delivered by HMH, but unpaid to HMH prior to the termination date.

11. Force Majeure. Except for School/District's payment obligations under this Agreement, no party shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 90 days, a party may cancel unperformed services upon written notice. This section does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures.



12. Governing Law. This Agreement shall be construed and enforced in accordance with the Commonwealth of Massachusetts without regard to its conflicts of laws and provisions. Any action or proceeding brought by either party against the other arising out of or relating to this Agreement shall be brought only in a local, state or federal court of competent jurisdiction in Massachusetts.

13. Notices. All notices and other communications required or permitted under this Agreement shall be served in person, by US Mail, or Federal Express or equivalent carrier at the following address:

If to HMMH:
Houghton Mifflin Harcourt
Attn: VP and General Counsel
125 High Street
Boston, MA 02110

If to School/District:

Livermore Valley Joint Unified School District
685 E Jack London Blvd
Livermore, CA 94551

14. Miscellaneous. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining portions of this Agreement shall remain in force and in effect and be construed so as to best effectuate the intention of the parties upon execution. The paragraph headings contained herein are for reference only. The waiver of one default shall not waive subsequent defaults of the same or different kind.

15. Export. Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the services. The School/District agrees that such export control laws govern its use of the Services (including technical data) and any Services deliverables provided under this Agreement, and the School/District agrees to comply with all such export laws and regulations (including "deemed export" and "deemed re-

export" regulations). The School/District agrees that no data, information, software programs and/or materials resulting from Services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws.

16. Entire Agreement. This Agreement, including other agreements and documents incorporated herein by reference, constitute the entire understanding and agreement between HMMH and School/District with respect to the subject matter hereof and supersedes all prior agreements, representations, understandings, negotiations and communications between the parties pertaining thereto. Any modifications or amendments to this Agreement must be in writing signed by a duly authorized agent or representative of HMMH and School/District. Specifically, any contrary, inconsistent, or additional terms incorporated in any other documents will be of no force or effect whatsoever.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby.

School/District:

Signature:

Print Name:

Title:

Effective Date:

Houghton Mifflin Harcourt Publishing Company

Signature:

Print Name:

Title:

Effective Date:

Schedule 1

Price Summary

The following table summarizes products and services HMH is providing under this Purchase Agreement.

Schedule 1 to Enterprise Solutions Agreement		
Appendix	Description	Purchase Price
Appendix A – Exhibit 1	Math 180 on Ed 3 Year CP # 008979183	\$156,226.44
Total		\$156,226.44



STANDARD PURCHASE AGREEMENT

Schedule 2

Payment Summary

Payments shall be made in accordance with the terms and conditions of the Agreement. Payment(s) shall be due & payable as follows:

Payment # 1 in the amount of \$78,113.22 to be paid on or before August 15, 2024

Payment # 2 in the amount of \$78,113.22 to be paid on or before August 15, 2025

Grand Total = \$156,226.44

The pricing and extended payment terms outlined in this Agreement are based on receiving payment in the form of a check, ACH or Wire transfer.



Houghton Mifflin Harcourt

Proposal #008979183

Prepared For

Livermore Valley Joint Unif SD

Attention:

Melissa Theide

mtheide@lvjUSD.org

For the Purchase of:

Math 180 on Ed 3 Year

Prepared By

Hasia Babicz

hasia.babicz@hmc.com

Please submit this proposal with your purchase order.

Purchase orders or duly executed service agreements for **Professional Services** purchased, must be submitted at least 30 days before the service event date.

For greater detail, the complete Terms of Purchases may be reviewed here:

<http://www.hmc.com/common/terms-conditions>

Send **Check Payments** to:
Houghton Mifflin Harcourt Publishing Company
14046 Collections Center Drive
Chicago, IL 60693

Attention:
Melissa Theide
mtheide@lvjUSD.org

Send **Orders** to:
orders@hmc.com
FAX: 800-269-5232

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Proposal for Livermore Valley Joint Unif SD

ISBN	Title	Price	Quantity	Value of All Material	Free Materials Quantity
Math 180					
Student Licenses					
1867370	9780358937463 Math 180 on Ed Student Digital Subscription 3 Year Includes: Math 180 on Ed Student License, 3 Year Implementation Success	\$327.00	225	\$73,575.00	
Total for Student Licenses		\$73,575.00			
Teacher Licenses					
1821213	9780358654629 Math 180 on Ed Teacher Digital Subscription 3 Year Includes: Math 180 on Ed Teacher License, 3 Year Access to Teacher's Corner	\$897.00			9
Total for Teacher Licenses		\$0.00			
A la Carte Items Available for Purchase					
Student Materials					
1820977	9780358653936 MATH 180 Multiplication and Division Student mSpace, 3 Year	\$45.00	225	\$10,125.00	
1821174	9780358654001 MATH 180 Fractions Student mSpace, 3 Year	\$45.00	225	\$10,125.00	
Teacher/Classroom Materials					
Classroom Packages					
1821687	9780358658597 MATH 180 Multiplication and Division Classroom Package Includes: MATH 180 Multiplication and Division Teacher Bookshelf MATH 180 Multiplication and Division mSpace Annotated Edition MATH 180 Multiplication and Division Teacher Edition MATH 180 Getting Started Teacher Edition MATH 180 Classroom Posters MATH 180 Program Guide MATH 180 Multiplication and Division Games Box	\$669.00	8	\$5,352.00	
Teacher Materials					
1815169	9780358610090 MATH 180 Fractions mSpace Annotated Edition	\$79.00	8	\$632.00	
1815171	9780358610113 MATH 180 Fractions Teacher Edition	\$399.00	8	\$3,192.00	
1815172	9780358610120 MATH 180 Decimals and Integers mSpace Annotated Edition	\$79.00	8	\$632.00	
1815174	9780358610144 MATH 180 Decimals and Integers Teacher Edition	\$399.00	8	\$3,192.00	
1815175	9780358610151 MATH 180 Rates and Ratios mSpace Annotated Edition	\$79.00	8	\$632.00	
1815177	9780358610175 MATH 180 Rates and Ratios Teacher Edition	\$399.00	8	\$3,192.00	
1815178	9780358610182 MATH 180 Proportional and Linear Relationships mSpace Annotated Edition	\$79.00	8	\$632.00	
1815180	9780358610205 MATH 180 Proportional and Linear Relationships Teacher Edition	\$399.00	8	\$3,192.00	

Send **Check Payments** to:
Houghton Mifflin Harcourt Publishing Company
14046 Collections Center Drive
Chicago, IL 60693

Attention:
Melissa Theide
mtheide@lvjUSD.org

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FAX: 800-269-5232

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ISBN	Title	Price	Quantity	Value of All Material	Free Materials Quantity
1815181 9780358610212	MATH 180 Linear and Non-Linear Functions mSpace Annotated Edition	\$79.00	8	\$632.00	
1815183 9780358610236	MATH 180 Linear and Non-Linear Functions Teacher Edition	\$399.00	8	\$3,192.00	
1815186 9780358610267	MATH 180 Fractions Game Box	\$149.00	8	\$1,192.00	
1815187 9780358610274	MATH 180 Decimals and Integers Games Box	\$59.00	8	\$472.00	
Total for A la Carte Items Available for Purchase				\$46,386.00	

Total for Math 180 **\$119,961.00**

Professional Services - Math 180
Implementation Success Plan

1848201 9780358814108	M180 on Ed Getting Started In-Person (two, 3 HR sessions) 6-Hour Grade 4-12	\$4,200.00	1	\$4,200.00	
1858777 9780358885665	Math 180 on Ed Coaching In-Person 6-Hour Grades 5-12	\$4,200.00	2	\$8,400.00	
1868042 9780358943150	Math 180 on Ed Coachly 4 + In-Person Subscription 1 Year Grades 5-12	\$5,500.00	1	\$5,500.00	
1821115 9780358653707	Getting Started: Introduction to Math 180 on Ed Live Online 2-Hour Grade 5-12 This two-hour Getting Started session introduces teachers to their new program's structure, essential resources, and implementation recommendations. Teachers will also explore Ed, HMH's teaching and learning platform, and the professional learning pathway on Ed. Getting Started is the initial step toward a successful first 30 days. Ongoing training and support will be also provided on Ed. There, teachers will access a guided learning pathway based on their grade level and implementation timeline. A recommended sequence of topics, which includes live sessions, videos, interactive media, and related resources, will help teachers plan, teach, and assess student learning using their new HMH program. After teachers complete each pathway topic, they receive a certificate of completion.		1		

Total for Implementation Success Plan **\$18,100.00**

Leader Support for Math 180

1852718 9780358845010	Math 180 Leader Success Live Online 1-Hour Grade 4-12		1		
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Total for Leader Support for Math 180 **\$0.00**

Total for Professional Services - Math 180 **\$18,100.00**

Send **Check Payments** to:
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Attention:
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mtheide@lvjUSD.org

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Proposal for Livermore Valley Joint Unif SD

ISBN	Title	Price	Quantity	Value of All Material	Free Materials Quantity
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<i>Total Savings:</i>	\$8,473.00
<i>Subtotal Purchase Amount:</i>	\$138,061.00
<i>Shipping & Handling:</i>	\$12,164.04
<i>Sales Tax:</i>	\$6,001.40
<i>Total Cost of Proposal (PO Amount):</i>	\$156,226.44

Send **Check Payments** to:
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 14046 Collections Center Drive
 Chicago, IL 60693

Attention:
 Melissa Theide
 mtheide@lvjUSD.org

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Total Cost of Proposal (PO Amount): \$156,226.44

Thank you for considering HMH as your partner. We are committed to providing an excellent experience and delivering ongoing, high-quality service to our customers. To meet these goals, we want to ensure you are aware of the below Terms of Purchase. These terms help us process your order quickly, efficiently, and accurately, ensuring successful delivery and implementation of our solutions.

- Please return this cost proposal with your signed purchase order that matches product, prices and shipping charges.
- Provide the exact address for *delivery* of print materials. The shipping address may be your district warehouse or individual school sites, but it is essential that this is accurate.
- Please supply the name of each important district point of contact for all aspects of the solution including their direct contact information (email/phone):
 - o Point of Contact for Print materials
 - o Point of Contact for Digital materials
 - o Point of Contact for Scheduling Professional Development
- Please confirm that we have the correct 'Ship to' and 'Sold to' information on the cost proposal.

Ship to:	Sold to:
Livermore Valley Joint USD	Livermore Valley Joint USD
685 E Jack London Blvd	685 E Jack London Blvd
Livermore, CA 94551-1855	Livermore, CA 94551-1855
- Please provide funding start and end dates.
- Please note that all products and services will be billed upon the processing of your purchase order.
- Our payment terms are 30 days from the invoice date.
- Print subscription material quantities may be adjusted across grades for like products, to accommodate enrollment fluctuations, quantities cannot be adjusted between different programs or copyrights.
- Our shipping terms are FOB shipping point. The shipping term for your proposal is Destination.
- Any proposed shipping or tax amount provided on this proposal, is based on the Ship To account location quoted within.
- If the location of your delivery changes, please include the proper sales tax and shipping charges for that location in the applicable Purchase Order
- Should any of these Terms of Sale conflict with any preprinted terms on your purchase order, the HMH terms of service shall apply.

Thank you in advance for supplying us with the necessary information at time of purchase.

Our goal is to ensure your success throughout the duration of this agreement, which starts with a highly successful delivery of our solution.

For greater detail, the complete Terms of Purchase may be reviewed here: <http://www.hmhco.com/common/terms-conditions>

Date of Proposal: 3/14/2024

Proposal Expiration Date: 7/19/2024



Houghton Mifflin Harcourt

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