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**SERVICES AGREEMENT**  
**(Bio-Reference Laboratories, Inc.)**

This Master Services Agreement (this "**Agreement**") is effective as of the 1<sup>st</sup> day of March, 2021 (the "**Effective Date**") and is entered into by and between the Board of Education of the City of Chicago, a body politic and corporate, commonly known as Chicago Public Schools, with offices located at 42 West Madison Street, Chicago, IL 60602 (the "**Board**" or "**CPS**") and Bio-Reference Laboratories, Inc. with principal place of business located at 481 Edward H. Ross Drive, Elmwood Park, NJ 07407 ("**Vendor**"). The Board and Vendor shall be referred to collectively herein as the "**Parties**."

**RECITALS**

- A. The Board desires that Vendor provide certain services related to COVID-19 testing for CPS students; and
- B. Vendor has demonstrated expertise in providing such services, has represented that it has the requisite knowledge, skill, experience and other resources necessary to perform such services and is desirous of providing such services to the Board; and
- C. The parties now wish to execute this Agreement that defines the nature of their relationship, establishes pricing, and describes the manner in which services will be furnished by Vendor.

NOW, THEREFORE, in consideration of the foregoing, which are incorporated into and made a part of this Agreement by this reference, and the mutual covenants contained herein, the parties agree:

1. **Term:** This Agreement will commence on March 1, 2021 and continue through June 30, 2021 (the "**Term**"), unless terminated sooner as provided in this Agreement. The Board shall be one (1) option to renew this Agreement for a period of twelve (12) months.

2. **Scope of Services:** Vendor agrees to provide the Services as described in this Agreement, including the Scope of Services that is attached and incorporated into this Agreement as Exhibit A and any and all services, deliverables, duties, responsibilities, and work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement. The Board retains final authority with respect to all decisions related to the Services. The Board may, from time to time, request changes in the scope of Services. Any such changes to the Agreement shall require documentation by a written amendment to this Agreement signed by the authorized representatives of both parties and the Board's General Counsel.

3. **Compensation, Purchase Order, Billing and Payment Procedures:**

3.1. **Compensation:** Vendor shall be paid in accordance with the fees and costs set forth in the Budget, attached and incorporated into this Agreement as Exhibit B. The maximum compensation payable to Vendor during the Term of this Agreement shall not exceed Thirteen Million Dollars (\$13,000,000.000) ("**Maximum Compensation Amount**"), as may be amended. It is understood and agreed that the Maximum Compensation Amount is a 'not-to-exceed amount' and is not a guaranteed payment. Compensation shall be based on actual Services performed during the Term of this Agreement, and the Board shall not be obligated to pay for any Services or other deliverables not in compliance with this Agreement. No expenses shall be reimbursed under this Agreement. In the event the Agreement is terminated early, the Board shall only be obligated to pay the fees incurred up to the effective date of termination and Vendor shall promptly refund to the Board any payments received from Services and deliverables not provided.

3.2. **Purchase Orders:** Orders must be on the Board's Standard Purchase Order Form. The pre-printed terms and conditions found on the Board's Purchase Order shall apply to the extent that such terms supplement and are not inconsistent with the terms and conditions

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contained in the Agreement. Under no circumstances shall Vendor render any Services without an approved Purchase Order.

- 3.3. **Billing and Payment Procedures:** All invoices must be submitted electronically via email in PDF format to [cpsinvoice@cps.edu](mailto:cpsinvoice@cps.edu). Each email may only contain one invoice and must include the Vendor's name and the CPS Purchase Order number. All invoices must include:

- Vendor name and payment address
- Unique invoice number (determined by Vendor)
- Valid purchase order number (only one PO number may be referenced on each invoice)
- Invoice date
- Itemized description of the services rendered and goods delivered
- Date the services were provided and goods were delivered to CPS
- Detailed pricing information such as quantities, unit prices, discount, and final net amount due

Invoices shall be submitted in a timely manner. The final invoice shall be submitted no later than ninety (90) days after the expiration or termination of the Agreement. If Vendor has more than one contract with the Board, separate invoices must be submitted for each contract. The Board shall process payments in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.* The Board reserves the right to request additional information and supporting documentation necessary for the Board to verify the Services provided under the Agreement.

- 3.4. **Electronic Payments:** Vendor agrees that, at the Board's sole discretion, the Board may make payment electronically to Vendor for any and all amounts due to Vendor pursuant to the Agreement by means of the Board's procurement charge card account. Vendor recognizes that any charge to the Board's procurement charge card that is in excess of the open remaining amount as stipulated in the applicable Purchase Order, or any charge unaccompanied by the requisite documentation and data as required by the Board, shall be deemed invalid and disputed by the Board. Vendor further recognizes that, in the absence of any supporting documentation as may be required by the Board, payments associated with disputed charges shall be rescinded by the Board and deemed not owed by the Board. Vendor agrees to comply with the rules, procedures and documentation required for electronic payment via the Board's procurement charge card as established by the Board's Department of Procurement.

4. **Personnel:** The Board has retained the Vendor because of Vendor's expertise and that of its employees, agents, volunteers and subcontractors (collectively referred to as "**Staff**"). For the avoidance of doubt, all volunteers of Vendor shall be considered agents of Vendor. Vendor must assign and maintain during the Term of the Agreement and any renewal of it, an adequate Staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned to perform the Services. If the Board determines, in its sole discretion that any employee, subcontractor or other person providing Services hereunder for Vendor is not performing in accordance with the performance standards or other requirements of the Agreement, the Board shall have the right to direct the Vendor to remove that person from performing Services under the Agreement.

5. **Standards of Performance:** Vendor shall devote, and shall cause all of its employees, agents and subcontractors, if any, to devote, such of their time, attention, best skill and judgment, knowledge and professional ability as is necessary to perform Services effectively, efficiently, and consistent with the best interests of the Board and to the satisfaction of the Board's Chief Procurement Officer or his/her designee. Vendor shall retain and utilize sufficient staff to assure the most effective and efficient supply of Services and shall utilize, as required by law or by this Agreement, professionals licensed to practice in the State of Illinois in the applicable profession. Vendor shall use efficient business administration methods and perform the Services in a professional and workmanlike manner in accordance with generally recognized industry

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standards for similar services and in an expeditious and economical manner consistent with the best interests of the Board, so as to assure, among other things, that the Services are performed at a reasonable cost to the Board and that Services supplied by other entities or persons in connection with this Agreement are efficiently and cost-effectively delivered. Vendor acknowledges that, if in the course of providing Services hereunder, it is entrusted with or has access to valuable or confidential information or records of the Board, that with respect to that information, Vendor agrees to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Services or deliverables by the Board does not relieve Vendor of its responsibility for the professional skill, care, and technical accuracy of its Services and deliverables or payment for any Services. Vendor shall remain responsible for the professional and technical accuracy of all Services, including any deliverables furnished, whether by Vendor or its subcontractors or others on its behalf.

6. **Non-Appropriation:** Expenditures not appropriated by the Board in its current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event no funds or insufficient funds are appropriated and budgeted in any subsequent fiscal period by the Board for performance under this Agreement, the Board shall notify Vendor and this Agreement shall terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. Payment for Services completed to the date of notification shall be made to Vendor except that no payment shall be made or due to Vendor under this Agreement beyond those amounts appropriated and budgeted by the Board to fund payments under this Agreement.

7. **Termination, Suspension of Services, Events of Default, Remedies and Turnover of Documents:**

7.1. **Early Termination:** The Board may terminate this Agreement in whole or in part, without cause at any time by a notice in writing from the Board to Vendor in accordance with the notice provisions herein. The effective date of the termination shall be the date stated in the notice.

After notice is received, Vendor must restrict its activities and those of its subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed.

Vendor must include in its contracts with subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the Board arising from termination of subcontracts after the early termination of this Agreement. Vendor shall not be entitled to make any early termination claims against the Board resulting from any subcontractor's claims against Vendor or the Board to the extent inconsistent with this provision.

7.2. **Suspension of Services:** The Board may request that Vendor suspend Services in whole or part. Vendor shall promptly resume supplying Services upon written notice from the Board and upon such equitable extension of time as may be mutually agreed upon, in writing, by the Board and Vendor. Responsibility for any additional costs or expenses actually incurred by Vendor as a result of remobilization shall be determined by mutual agreement of the parties.

7.3. **Events of Default:** Events of default ("**Events of Default**") include, but are not limited to, any of the following:

- A. Any action or failure to act by Vendor that affects the safety and/or welfare of any students or Board staff;
- B. Any material misrepresentation by Vendor in the inducement of the Agreement or the provision of Services;
- C. Breach of any term, representation or warranty made by Vendor in the Agreement;
- D. Default by Vendor under any other agreement Vendor may have with the Board;

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- E. Assignment by Vendor for the benefit of creditors or consent by Vendor to the appointment of a trustee or receiver or the filing by or against Vendor of any petition or proceeding under any bankruptcy, insolvency or similar law; or
- F. Failure of Vendor to supply the Services required hereunder in accordance with the terms and conditions of the Agreement, including, but not limited to, the following:
  - A. Failure to perform in accordance with terms, conditions, and specifications of this Agreement;
  - B. Failure to supply any portion of the Services herein at the time fixed for performance and in the manner specified herein;
  - C. Failure to supply the Services with sufficient personnel and equipment or with sufficient material to ensure the supply of Services due to a reason or circumstances within Vendor's reasonable control;
  - D. Failure to supply the Services in a manner satisfactory to the Board, or inability to supply the Services satisfactorily as a result of insolvency or filing for bankruptcy;
  - E. Failure to promptly re-supply Services that were determined by the Board to be defective or failing to meet the scope of Services within a reasonable time;
  - F. Discontinuance of the supply of the Services for reasons within Vendor's reasonable control; or
  - G. Failure to comply with any term of this Agreement, including but not limited to, the provisions concerning insurance and nondiscrimination, and any other acts specifically and expressly stated in this Agreement constituting an event of default.

7.4. **Remedies:** The Board in its sole discretion may declare Vendor in default if Vendor commits an Event of Default. The Chief Procurement Officer may in his/her discretion give the Vendor an opportunity to cure the default within a certain period of time (the "**Cure Period**"). The Chief Procurement Officer shall give Vendor written notice of the default in the form of a cure notice ("**Cure Notice**"). If the Chief Procurement Officer determines, in his/her sole discretion, that no opportunity to cure is to be granted, he/she may give a default notice ("**Default Notice**").

The Chief Procurement Officer may give a Default Notice after a Cure Notice if: (1) Vendors fails to effect a cure within the Cure Period given in the applicable Cure Notice, or (2) if the Event of Default cannot be reasonably cured within said Cure Period, Vendor fails to commence and continue diligent efforts to cure in the sole opinion of the Board.

A written Default Notice shall be final and effective termination of the Agreement, in whole or in part as specified by the Board, upon Vendor's receipt of such notice or on the date set forth in the notice, whichever is later. When a Default Notice is given, Vendor must discontinue all Services unless otherwise specifically directed in the notice.

Upon the occurrence of an Event of Default, the Board may invoke any or all of the following remedies:

- A. Take over and complete the supply of Services or any part thereof, by contract or otherwise as agent for and at cost of Vendor either directly or through others. Vendor shall be liable to the Board for any excess costs incurred by the Board. Any amount due Vendor under this Agreement or any other agreement Vendor may have with the Board may be offset against amounts claimed due by the Board;
- B. Terminate this Agreement, in whole or in part, as to any or all of the Services yet to be supplied effective at a time specified by the Board;

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- C. Suspend performance of Services during the Cure Period if the default results from Vendor's action or failure to act which affects the safety or welfare of students or Board staff. In the event that the performance of Services is resumed, Vendor shall not be entitled to seek reimbursement from the Board for any additional costs and expenses incurred as a result of the remobilization;
- D. Specific performance, an injunction or any other appropriate equitable remedy;
- E. Receive from Vendor any and all damages incurred as a result or in consequence of an Event of Default;
- F. Money damages;
- G. Withhold all or part of Vendor's compensation under this Agreement; and
- H. Use an Event of Default as a basis to deem Vendor non-responsible in future contracts to be awarded by the Board and/or seek debarment of Vendor pursuant to the Board's Debarment Policy on Non-Responsible Persons in Procurement Transactions (08-1217-PO1), as may be amended.

The Board may elect not to declare Vendor in default or to terminate this Agreement. If the Chief Procurement Officer decides not to terminate, then she or he may decide at any time thereafter to terminate the Agreement, in whole or in part, in a subsequent Default Notice. The parties acknowledge that this provision is solely for the benefit of the Board and that if the Board permits Vendor to continue to supply the Services despite one or more Events of Default, Vendor shall in no way be relieved of any responsibilities, duties or obligations under this Agreement nor shall the Board waive or relinquish any of its rights under this Agreement, at law, in equity or statute.

The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall be construed as a waiver of any Event of Default or acquiescence thereto, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

If the Board's election to terminate this agreement for default under this Section is determined by a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered an early termination pursuant the Early Termination provision above.

**7.5. Turnover of Documents and Records:** Upon demand of the Board after termination of the Agreement for any reason or the expiration of the Agreement by its terms, Vendor shall turn over to the Board or its designee within five (5) days of demand, all materials, supplies, equipment owned or purchased by the Board, completed or partially completed work product or analyses, data, computer disks, documents and any other information relating in any way to this Agreement or the performance or furnishing of Services, except that Vendor may keep a copy of such information for its own records. In the event Vendor retains a copy for its own records, it shall continue to abide by the terms of this Agreement, specifically those regarding the use of such information. In the event the Board elects to have Vendor destroy materials, Vendor shall provide an affidavit attesting to such destruction.

**8. Confidential Information; Dissemination of Information; Ownership; Injunctive Relief; Survival:**

**8.1. Confidential Information:** In the performance of the Agreement, Vendor may have access to or receive certain information that is not generally known to others ("**Confidential Information**"). Such Confidential Information may include but is not limited to: student data as further defined below, employee data, technical data or specifications, software, ideas, budget figures, operational details, security details, unpublished school information, CPS financial information, and CPS business plans. It is understood and agreed that Confidential Information also includes proprietary or confidential information of third parties provided by the Board to Vendor.

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Confidential Information will not include information that is: (i) or becomes part of the public domain through no fault of Vendor; (ii) made available to Vendor by an independent third party having the legal right to make such disclosure; and (iii) information that can be established and documented by Vendor to have been independently developed or obtained by Vendor without violating the confidentiality obligations of this Agreement and any other agreements with the Board.

8.2. **Student Data:** Student Data means any data, metadata, information, or other materials of any nature recorded in any form whatsoever, that is generated, disclosed, transmitted, created, or provided by the Board, either directly or through its students, employees, agents, and subcontractors, including the Student Data listed in Exhibit E, Scope of Data Collected, attached hereto and incorporated herein, and all information used, created, or generated through the use of any technology including but not limited to any Software (as defined in the Agreement), by the Board, through its employees, agents, subcontractors, or the parent or legal guardian of any CPS student, that is directly related to a CPS student. For purposes of this Agreement, Student Data shall still be considered Confidential Information; additional requirements regarding Student Data specifically are described below.

8.3. **Use of Confidential Information:** Vendor shall only use Confidential Information for the sole purpose of providing the Services to the Board hereunder and shall not disclose the Confidential Information except to those of its officers, agents, employees, and subcontractors who have a need to access the Confidential Information for the performance of the obligations set forth in this Agreement, and as otherwise required by applicable federal, state and local laws and regulations such as mandatory COVID-19 test results reporting to applicable departments of health. Vendor shall not copy or reproduce in any manner whatsoever the Confidential Information of the Board without the prior written consent of the Board, except where required for its own internal use in accordance with this Agreement. Vendor shall use at least the same standard of care in the protection of Confidential Information as Vendor uses to protect its own confidential information, but in any event, such Confidential Information shall be protected in at least a commercially reasonable manner. Notwithstanding the foregoing, it is understood and agreed that such protection of Confidential Information may be subject to the special requirements of FERPA, the Student Online Personal Protection Act "**SOPPA**", and ISSRA as described in the Compliance with Laws Section.

8.4. **De-Identified Data:** De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, persistent unique identifiers, name, ID numbers, date of birth, demographic information, location information, and school ID. Vendor agrees not to attempt to re-identify de-identified Data. For the purposes of this Agreement, De-Identified Data will still be considered Confidential Information and treated as such unless expressly provided otherwise in this Agreement.

8.5. **Vendor HIPAA and HITECH ACT:** To the extent applicable to this Agreement, Vendor agrees to comply with the federal Health Information Technology for Economic and Clinical Health Act of 2009 (the "**HITECH Act**"), the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 USC § 1320d through d-8 ("**HIPAA**") and any current and future regulations promulgated under either the HITECH Act or HIPAA, including without limitation the federal privacy standards contained in 45 C.F.R. Parts 160 and 164 (the "**Federal Privacy Standards**"), and the federal security standards contained in 45 C.F.R. Parts 160, 162 and 164 (the "**Federal Security Standards**"), all as may be amended from time to time, and all collectively referred to herein as "**Health Information Confidentiality Requirements**." Vendor agrees to enter into any further agreements as necessary to facilitate compliance with the Health Information Confidentiality Requirements. A detailed description of "**Vendor's HIPAA Obligations**" is attached and incorporated herein as Exhibit C.

8.6. **Transmitting and Storing Confidential Information:** Vendor shall protect against the unauthorized access, use or disclosure of Confidential Information by employing security measures that are no less protective as those used to protect Vendor's own confidential information. When

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handling Confidential Information, which may include but is not limited to student data, Vendor shall:

- A. When mailing physical copies of Confidential Information, send the Confidential Information in a tamper-proof, labeled container, with a tracking number and a delivery confirmation receipt;
- B. Not store any Confidential Information on portable or removable electronic media, such as CDs, DVDs, electronic tape, flash drives, etc., unless directed by a federal or state governmental agency;
- C. Not leave Confidential Information in any medium unsecured and unattended at any time;
- D. Keep all physical copies (paper, portable or removable electronic media, or other physical representations) of Confidential Information under lock and key, or otherwise have sufficient physical access control measures to prevent unauthorized access;
- E. Password protect any laptop or other electronic device that contains Confidential Information. Additionally, any laptop or other electronic device that contains Confidential Information shall have its full hard drive encrypted with an encryption key of no less than 256 bits. Vendor shall not leave any laptop or other electronic device unattended without enabling a screen-lock or otherwise blocking access to the laptop or other electronic device. Vendor shall ensure that no password or other information sufficient to access a laptop or electronic device containing Confidential Information is attached to or located near the laptop or other electronic device at any time.
- F. Secure the Confidential Information stored on its systems, including but not limited to any servers, by employing adequate security measures to prevent unauthorized access, disclosure and use of that information. These measures include appropriate administrative, physical, and technical safeguards, policies and procedures relating to data access controls. All Confidential Information must be secured in transit using secure FTP services or https/TLS 1.0+. Vendor must maintain industry recognized security practices to establish secure application(s), network, and infrastructure architectures.
- G. Ensure that the manner in which Confidential Information is collected, accessed, used, stored, processed, disposed of and disclosed within Vendor's Products, Services, and supporting enterprise complies with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement.
- H. Conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Vendor will also have a written incident response plan, to include prompt notification of the Board in the event of a security or privacy incident, as well as best practices for responding to a breach of Confidential Information security practices. Vendor agrees to share its incident response plan upon request.
- I. Assure that its systems and Services include at least the following safeguards:
  - 1. Include component and system level fault tolerance and redundancy in system design.
  - 2. Encrypt or one way hash user passwords in any data storage location and obfuscate password entry fields in any entry interface controlled by the discloser.
  - 3. Encrypt Confidential Information at-rest and in-transit.
  - 4. Authentication of users at login with a 256-bit or higher encryption algorithm.

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5. Secure transmission of login credentials.
6. Automatic password change routine.
7. Trace user system access via appropriate system logs.
8. Secure (encrypt) the audit trails and system generated logs and ensure that they are stored in locations that are inaccessible to automated content discovery software.
9. Conduct or undergo system level testing whenever new functionalities are added to the system to reconfirm system security measures are retained and functional, and that interaction with the Board systems is not degraded or compromised.
10. Employ an in-line intrusion protection system that inspects incoming data transmissions.
11. Prevention of hostile or unauthorized intrusion.
12. Backup of all Confidential Information at least once every twenty-four (24) hours. Perform content snapshots at least daily and retain for at least ninety (90) days.

J. Confidential Information shall be stored, backed up, and served only on servers located in the continental United States. Vendor's network where Confidential Information may be stored shall have an in-line intrusion prevention system that inspects incoming data transmissions. Vendor shall have a documented disaster recovery plan for the electronic systems where Confidential Information may be stored. Data stored in cloud-based systems must be protected in the same manner as local data as described throughout the Agreement.

**8.7. Dissemination of Information:** Vendor shall not disseminate any Confidential Information to a third party without the prior written consent of the Board. If Vendor is presented with a request for documents by any administrative agency or with a *subpoena duces tecum* regarding any Confidential Information which may be in Vendor's possession as a result of Services and/or materials provided under the Agreement, Vendor shall immediately give notice to the Board and its General Counsel with the understanding that the Board shall have the opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party. Vendor shall not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended.

**8.8. Unauthorized Access, Use, or Disclosure of Confidential Information:** If Vendor becomes aware of any unauthorized access, use, or disclosure of the Confidential Information, it shall: (i) notify the Board immediately, which shall be no more than twenty-four hours from Vendor receiving notice of the unauthorized access, use or disclosure of the Confidential Information; (ii) take prompt and appropriate action to prevent further unauthorized access, use or disclosure of the Confidential Information; (iii) cooperate with the Board and any government authorities with respect to the investigation and mitigation of any such unauthorized access, use, or disclosure, including the discharge of the Board's duties under the laws; and (iv) take such other actions as the Board may reasonably require to remedy such unauthorized access, use and disclosure, including if required under any federal or state law, providing notification to the affected persons. Vendor shall bear the losses and expenses (including attorneys' fees) associated with the breach of its obligations concerning the handling and protection of Confidential Information, including without limitation any costs: (1) of providing notices of a data breach to affected persons and to regulatory bodies; and (2) of remedying and otherwise mitigating any potential damages or harm of the data breach, including without limitation, establishing call centers and providing credit monitoring or credit restoration services, as requested by the Board.



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8.9. **Additional Obligations Regarding Treatment of Student Data:** In addition to the above stated obligations for the treatment and handling of Confidential Information, Vendor shall abide by the following obligations with regards to any Student Data Vendor may receive, store, transmit, handle or otherwise have access to pursuant to this Agreement:

A. Student Data Use: Vendor shall not use Student Data, including persistent unique identifiers, data created or gathered by Vendor's site, Services, and technology, for any purpose, including but not limited to amassing a profile about a CPS student or otherwise identify a CPS student except in furtherance of specific Services as set forth in this Agreement. Vendor will use Student Data only for the purpose of fulfilling its duties and delivering Services under this Agreement, and for improving Services under this Agreement in a way that does not otherwise violate the terms of this Agreement regarding the treatment of Confidential Information.

B. Student Data Collection: Vendor will collect only Student Data necessary to fulfill its duties as outlined in this Agreement.

C. Marketing and Advertising: Vendor shall not advertise or market to students or their parents/legal guardians when the advertising is based upon any Student Data that Vendor has acquired because of the use of that Vendor's Services or the use of technology as part of the Services.

D. Student Data Mining: Vendor is prohibited from mining Student Data. Student Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited.

E. Student Data Transfer or Destruction: Vendor will ensure that all Student Data in its possession and in the possession of any subcontractors, or agents to whom Vendor may have transferred Student Data, are destroyed or transferred to the Board under the direction of the Board when Student Data is no longer needed for its specified purpose.

F. Rights in and to Student Data: Parties agree that all rights, including all intellectual property rights, associated with such Student Data shall remain the exclusive property of the Board. Nothing in this Agreement is meant and nothing shall be interpreted to mean that the Board releases any ownership or control of Student Data during the performance of the Services under this Agreement. Student Data shall remain under the control of the Board throughout the Term of this Agreement, including any Renewal Terms. This Agreement does not give Vendor any rights, implied or otherwise, to Student Data, content, or intellectual property. Vendor does not have the right to sell or trade Student Data.

G. Sale of Student Data: Vendor is prohibited from selling, trading, or otherwise transferring Student Data.

H. Access: Any Student Data held by Vendor will be made available to the Board upon request of the Board. The identity of all persons having access to Student Data through Vendor will be documented and access will be logged.

8.10. **Injunctive Relief:** In the event of a breach or threatened breach of this Section, Vendor acknowledges and agrees that the Board would suffer irreparable injury not compensable by money damages and would not have an adequate remedy at law. Accordingly, Vendor agrees that the Board shall be entitled to immediate injunctive relief to prevent or curtail any such breach, threatened or actual. The foregoing shall be in addition and without prejudice to such rights that the Board may have in equity, by law or statute.

8.11. **Return or Destruction of Confidential Information:** In addition to compliance with the obligations set forth in HIPAA with respect to the return and destruction of Protected Health Information, Vendor shall, at the Board's option, destroy or return all Confidential Information

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provided by the Board to the Board within five (5) business days of demand, or if no demand is made, it shall destroy or return all Confidential Information, including any Work Product (defined below), to the Board within five (5) days of the expiration or termination of this Agreement unless Vendor receives permission in writing from the Board's Chief Information Officer or his designee that Vendor may retain certain Confidential Information or Work Product for a specific period of time. In the event the Board elects to have Vendor destroy the Confidential Information, Vendor shall provide an affidavit attesting to such destruction. If any of the above items are lost or damaged while in Vendor's possession, such items shall be restored or replaced at Vendor's expense. Notwithstanding the foregoing, Vendor may retain a copy of its own laboratory testing records as required under applicable law and regulation, including the Clinical Laboratory Improvement Amendments of 1988.

8.12. **Volunteers, Employees, Agents and Subcontractors:** Vendor agrees to cause its volunteers, employees, agents and subcontractors to undertake the same obligations as agreed to herein by Vendor.

8.13. **Survival:** The provisions of this Section shall survive the termination or expiration of this Agreement.

9. **Use of Board's Network:** If at any time, Vendor has access to the Board's computer network, Vendor warrants that it is and shall remain in compliance with the Board's Information Security Policy adopted September 25, 2013 (13-0925-PO1), and the Board's Staff Acceptable Use Policy, adopted August 28, 2019 (19-0828-PO3), both as amended, during the term of the Agreement and any renewals thereof. Vendor shall not act or fail to act in any manner that will cause any CPS student to not comply with the Board's Student Acceptable Use Policy, adopted August 28, 2019 (19-0828-PO2), as amended.

10. **Ownership:** Vendor agrees that, to the extent permitted by law, any and all finished or unfinished documents, screens, reports, writings, procedural manuals, forms, source code, object code, work flow charts, methods, processes, data, data studies, drawings, maps, files, records, computer printouts, designs, equipment descriptions, or other materials prepared or generated as a result of the Agreement ("Work Product") shall exclusively be deemed "works for hire" within the meaning and purview of the United States Copyrights Act, 17 U.S.C. § 101 et seq. To the extent any Work Product does not qualify as a "work for hire," Vendor irrevocably grants, assigns, and transfers to the Board all right, title, and interest in and to the Work Product in all media throughout the world in perpetuity and all intellectual property rights therein, free and clear of any liens, claims, or other encumbrances, to the fullest extent permitted by law. All Confidential Information, Work Product, and intellectual property developed by, created for, or incorporating information gained from the Services performed under the Agreement, shall at all times be and remain the property of the Board. Vendor shall execute all documents and perform all acts that the Board may request in order to assist the Board in perfecting or protecting its rights in and to the Work Product and all intellectual property rights relating to the Work Product. All of the foregoing items shall be delivered to the Board upon demand at any time and in any event, shall be promptly delivered to the Board upon expiration or termination of the Agreement within three (3) business days of demand. In addition, Vendor shall return the Board's data in the format requested by the Board. If any of the above items are lost or damaged while in Vendor's possession, such items shall be restored or replaced at Vendor's expense.

11. **Press Release; Publicity:** Vendor shall not issue publicity news releases, grant press interviews, or use any Confidential Information or Board intellectual property (as defined below), including but not limited to the CPS logo or the logos of any schools, during or after the performance of Services without the prior written consent of the authorized representatives of the Board. Furthermore, Vendor may not photograph or film or cause others to photograph or film within any CPS school or facility without the prior express written consent of the Board's Chief Communications Officer or his/her designee.

12. **Intellectual Property:**

12.1. **Intellectual Property Defined: "Intellectual Property"** means all trademarks, trade dress, copyrights, and other intellectual property rights in the materials used, created, arising from and developed in the performance of obligations and Services under this Agreement.

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12.2. **Board's Intellectual Property:** Vendor agrees that all Confidential Information, as well as any Intellectual Property arising therefrom and any Work Product as defined below, shall at all times be and remain the property of the Board. Any Intellectual Property or other documents and materials created by the Board either alone or in cooperation with Vendor in connection with the Services, including but not limited to such materials that were adapted or reproduced from Vendor's Materials ("**Board Materials**"), shall be the property of the Board. Any and all finished or unfinished documents, screens, reports, writings, procedural manuals, forms, source code, object code, work flow, charts, methods, processes, drawings, maps, files, records, computer printouts, designs or other materials prepared in the performance of Services ("**Work Product**") is exclusively deemed to be "works for hire" within the meaning and purview of the United States Copyright Act, 17 U.S.C. § 101 *et seq.* To the extent that any Work Product does not qualify as a work for hire, Vendor irrevocably grants, assigns, and transfers to the Board all right, title, and interest in and to the Work Product in all media throughout the world in perpetuity and all intellectual property rights therein, free and clear of any liens, claims, or other encumbrances, to the fullest extent permitted by law. Vendor shall execute all documents and perform all acts that the Board may request in order to assist the Board in perfecting or protecting its rights in and to intellectual property rights as defined in this Section. Board Materials shall exclude any and all (i) third party intellectual property and (ii) pre-existing Vendor Intellectual Property that is delivered to the Board as part of the Services. Upon written agreement between the parties, Vendor may be licensed to use the Board's Intellectual Property for specifically defined uses and terms.

12.3. **Vendor's Intellectual Property:** All Intellectual Property owned by Vendor prior to, or created independently of the performance of Services under this Agreement shall be and remain at all times "Vendor's Intellectual Property", provided that none of the Board's Confidential Information is used or disclosed in Vendor's Intellectual Property and such Intellectual Property is not Work Product. In the event that any Confidential Information is used or disclosed in any such Intellectual Property, it is the Board's Intellectual Property, and the Board shall have full and exclusive ownership rights to such Intellectual Property. Other than as may be expressly stated elsewhere in this Agreement, Vendor grants to the Board a perpetual, royalty-free, non-transferable license to use such of Vendor's Intellectual Property for non-commercial, educational purposes.

12.4. **Survival:** The obligations set forth in this Section shall survive the termination or expiration of this Agreement.

13. **Representations and Warranties of Vendor:** Vendor represents and warrants that the following shall be true and correct as of the effective date of this Agreement and shall continue to be true and correct during the Term of this Agreement:

13.1. **Licensed Professionals:** Vendor is appropriately licensed under Illinois law to perform Services required under this Agreement and shall perform no Services for which a professional license is required by law and for which Vendor, its employees, agents, or subcontractors, as applicable, are not appropriately licensed.

13.2. **Compliance with Laws:** Vendor is and shall remain in compliance with all applicable federal, state, county, and municipal, statutes, laws, ordinances, and regulations relating to this Agreement and the performance of Services in effect now or later and as amended from time to time, including but not limited to the Prevailing Wage Act, 820 ILCS 130/1 *et seq.*, City of Chicago and Cook County Minimum Wage Ordinances, including applicable Executive Order(s) and Board(s) Resolutions, the Drug-Free Workplace, the Illinois School Student Records Act, the Family Educational Rights and Privacy Act, SOPPA, the Protection of Pupil Rights Amendment, HIPAA, and any others relating to non-discrimination. Further, Vendor is and shall remain in compliance with all applicable Board policies and rules. Board policies and rules are available at <http://www.cps.edu>. In addition, Vendor shall comply with any state and federal governmental regulations, requirements, and guidelines, policies, and rules in effect now or later, and as amended from time to time related to COVID-19, including without limitation all reporting requirements and recommendations or requirements regarding face coverings and social distancing.

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13.3. **Good Standing:** Vendor is not in default and has not been deemed by the Board to be in default under any other Agreement with the Board during the five (5) year period immediately preceding the effective date of this Agreement.

13.4. **Authorization:** Vendor represents that it has taken all action necessary for the approval and execution of this Agreement, and execution by the person signing on behalf of Vendor is duly authorized by Vendor and has been made with complete and full authority to commit Vendor to all terms and conditions of this Agreement which shall constitute valid, binding obligations of Vendor.

13.5. **Financially Solvent:** Vendor warrants that it is financially solvent, is able to pay all debts as they mature and is possessed of sufficient working capital to complete all Services and perform all obligations under this Agreement.

13.6. **Gratuities:** No payment, gratuity or offer of employment was made by or to Vendor, or to the best of Vendor's knowledge, by or to any subcontractors, in relation to this Agreement or as an inducement for award of this Agreement. Vendor is and shall remain in compliance with all applicable anti-kickback laws and regulations.

13.7. **Research Activities and Data Requests:** Vendor shall not conduct research in the Chicago Public Schools or use CPS student data for research. In the event Vendor seeks to conduct research in the Chicago Public Schools or use CPS student data for research, Vendor shall comply with the Board's Research Study and Data Policy adopted on July 28, 2010, as may be amended from time to time. Vendor acknowledges and agrees that it may not begin any research activities or obtain data for research purposes without the prior written consent of the Chief Education Officer or his/her designee.

13.8. **Third Parties' Intellectual Property:** In performing and delivering the Services under this Agreement, Vendor shall not violate or infringe upon any patent, copyright, trademark, trade secret or other proprietary or intellectual property right of any third party and will not improperly use any third party's confidential information. Vendor shall have, without encumbrance, all ownership, licensing, marketing, and other rights required to furnish all materials and products that it furnishes to the Board under the Agreement and can grant or assign all rights granted or assigned to the Board pursuant to this Agreement.

13.9. **Assignment of Warranties:** Vendor has the right, title and ability to assign and shall assign to the Board any third-party warranties concerning the Services provided under this Agreement to the Board.

13.10. **No Legal Action Preventing Performance.** Vendor has no knowledge of any action, suit, proceeding, or material claim or investigation pending or to its knowledge threatened against it in any court, or by or before any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, or before any arbitrator of any kind, that, if adversely determined, would materially affect Vendor's ability to perform its obligations under this Agreement.

13.11. **Free of Computer Viruses:** Vendor shall use commercially reasonable best efforts to ensure that the Services, including but not limited to any Software or other software used in the performance of the Services, do not introduce or transfer any malicious code, malware, Trojan horses, ransomware, worms or other computer viruses into the Board's network, systems, and computers.

13.12. **Prohibited Acts:** Within the three (3) years prior to the effective date of this Agreement, Vendor or any of its members if a joint venture or a limited liability company, or any of its or their respective officers, directors, shareholders, members, managers, other officials, agents or employees (i) have not been convicted of bribery or attempting to bribe a public officer or employee of any public entity and (ii) have not been convicted of agreeing or colluding among contractors or prospective contractors in the restraint of trade, including bid- rigging or bid-rotating, as those terms are defined under the Illinois Criminal Code.

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13.13. **Debarment and Suspension:** Vendor certifies to the best of its knowledge and belief, after due inquiry, that:

A. it, its principals, and its subcontractors providing Services under this Agreement are not barred from contracting with any unit of state or local government as a result of violation of either Section 33E-3 (bid-rigging) or Section 33E-4 (bid rotating) of the Illinois Criminal Code (720 ILCS 5/33A *et seq.*);

B. it, its principals, and its subcontractors providing Services under this Agreement are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency or any unit of State or local government; and

C. it, its principals, and its subcontractors providing Services under this Agreement have not violated the rules, regulations, or laws of any federal, state, or local government unit or agency.

**"Principals"** for the purposes of this certification means officers, directors, owners, partners, persons having primary management or supervisory responsibilities within a business entity; and, if a joint venture is involved, each joint venture member and the principals of each such member.

13.14. **Continued Disclosure Requirement:** If at any time during the Term of this Agreement Vendor becomes aware of any change in the circumstances that makes the representations and warranties stated above no longer true, Vendor must immediately disclose such change to the Board in accordance with the Notice provision of this Agreement.

13.15. **Survival:** All warranties in this Section shall survive inspection, acceptance, expiration or termination of this Agreement. Nothing in the foregoing warranties shall be construed to limit any other rights or remedies available to the Board under the law and this Agreement.

14. **No Solicitation of Data, Waivers from Students:** Except as explicitly provided in this Agreement, Vendor may not seek or acquire directly from a student or from apparent or guardian of a student (a) any Confidential Information including without limitation any personal identifiable information or (b) any consent or waiver or release of claims or rights in any form, without the prior express written approval of the Board Project Manager.

15. **Background Check:** Vendor shall comply with the following requirements and such other procedures as may be determined necessary by the Board from time to time for each employee, agent, volunteer or subcontractor who may have contact with a CPS student as a result of this Agreement (individually and collectively "**Staff**") ("**Background Check**"). For purposes of this Section, contact via text messages, live chats, emails, any other digital or online media, telephone, in person, or through any other means shall be considered "contact". Vendor shall not allow any Staff to have contact with students until Vendor has confirmed with the Board that each respective Staff has successfully completed the Background Check in accordance with the following requirements:

15.1. **Do Not Hire List:** The Board will perform a check of eligibility of each Staff who may have contact with a CPS student pursuant to this Agreement by checking the Board's "Do Not Hire" ("**DNH**") records ("**DNH Check**"). The Board will utilize the same DNH Check process that the Board uses for its own prospective staff. Staff with a DNH designation shall not provide Services hereunder.

15.2. **Criminal History Records Check:** Vendor shall, at its own cost and expense, have a complete fingerprint-based criminal history records check conducted on each Staff who may have contact with a CPS student pursuant to this Agreement through the process established by the Board, including using the Board's contracted vendor for conducting such checks, and otherwise in accordance with the Illinois School Code (105 ILCS 5/34-18.5), which refers to and incorporates the Sex Offender and Child Murderer Community Notification Law (730 ILCS 152/101 *et seq.*), and the Murderer and Violent Offender Against Youth Registration Act (730 ILCS 154/1 *et seq.*) (collectively "**Criminal History Records Check**"). A complete Criminal History Records Check includes the following:

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- A. Fingerprint-based checks through the Illinois State Police and the Federal Bureau of Investigation;
- B. A check of the Illinois Sex Offender Registry and the Nationwide Sex Offender Registry; and
- C. A check of the Illinois State Police Murderer and Violent Offender Against Youth Registry.

The results of each Criminal History Records Check shall be adjudicated by the Board. Staff shall not have contact with CPS students prior to successfully completing the Criminal History Records Check. When the Board determines that any Staff has not passed a Criminal History Records Check, such Staff shall not access any Board facility and shall not have contact with any CPS student hereunder.

**15.3. Department of Children and Family Services Check:** At Vendor's cost and expense, the Board shall have the right to check Staff who may have contact with a CPS student pursuant to this Agreement for indicated reports of child abuse and/or neglect with the Illinois Department of Children and Family Services ("DCFS") State Automated Child Welfare Information System (or a comparable determination of child abuse or neglect by a government agency in another jurisdiction) for each Staff ("DCFS Check"). Vendor shall follow the directives and processes of the Board for initiating any DCFS Check, and the results of each DCFS Check shall be adjudicated by the Board. Staff determined by the Board not to have passed a DCFS Check shall not access any Board facility and shall not have contact with any CPS student hereunder.

**15.4. Background Check Representations and Warranties:** With respect to each Background Check, Vendor further represents and warrants that Vendor shall:

- A. Utilize the process established by the Board for completing each Background Check and immediately initiate all action, as directed by the Board, to have such Background Check performed;
- B. Obtain from each of its prospective and current Staff and provide to the Board a signed copy of any release and consent required to conduct the Background Check in the form determined by, and as directed by the Board;
- C. Confirm with the Board's Chief of Safety and Security that each respective Staff has successfully completed the Background Check through the process established by the Board and complied with the Board's directives regarding the results of each Background Check before any contact with a CPS student may occur;
- D. When contact with a CPS student may occur, not allow any Staff to provide Services until a DNH Check, Criminal History Records Check, and DCFS Check have been completed by the Board and the results of the Background Check satisfy for the Board, at a minimum, the requirements of 105 ILCS 5/34-18.5 and the requirements of all other Acts and Laws referenced in this Section, as may be amended;
- E. Comply with and require compliance of all Staff with directives from the Board relating to any updates to any Background Check (which updates shall be received and adjudicated by the Board) and provide any other information requested by the Board necessary for the performance of the Background Check and its update process; and
- F. Immediately remove from any contact with any CPS student pursuant to this Agreement and otherwise terminate access for any Staff determined by the Board not to have passed a Background Check or update for any matters arising after an initial Background Check.

**15.5 Allocation of Costs and Liquidated Damages:** Vendor is obligated to cause the Background Check to be performed for all Staff who may have contact with any CPS student pursuant to this Agreement, and Vendor shall be responsible for the costs of such Background Check. Whether or not Vendor allocates the costs to its subcontractors shall not affect Vendor's obligations in this Section.

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If Vendor fails to comply with this Section, in whole or in part, then, in addition to the Remedies set forth in this Agreement, the Board may exercise additional remedies, including but not limited to: (i) withholding payments due under this Agreement, and any other agreement Vendor may have or enter into with the Board until Vendor remedies such non-compliance to the Board's reasonable satisfaction; (ii) immediately terminating this Agreement without any further obligation by the Board of any kind (other than payment for Services previously rendered pursuant to the terms herein); (iii) seeking liquidated damages; (iv) or taking any other action or remedy available under this Agreement or by law.

Liquidated damages shall be calculated as \$5,000.00 per breach of this Section, which, for purposes of clarity, for the aggregate calculation of liquidated damages, will include each instance of contact with CPS students by Staff as a separate breach. It is understood and agreed that Vendor's non-compliance with this Section shall constitute a material breach of this Agreement.

16. **Independent Contractor:** It is understood and agreed that the relationship of Vendor to the Board is and shall continue to be that of an independent contractor and neither Vendor nor any of Vendor's employees shall be entitled to receive Board employee benefits. Vendor is the common law employer of the individuals who perform Services for the Board. As an independent contractor, Vendor agrees to be responsible for the payment of all taxes and withholdings specified by law which may be due in regard to compensation paid by the Board. To the extent that Vendor is subject to taxes under Section 4980H of the Internal Revenue Code, Vendor shall be solely responsible for paying such taxes. Vendor agrees that neither Vendor nor its employees, agents, and subcontractors shall represent themselves as employees or agents of the Board. Vendor shall provide the Board with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including but not limited to, a social security number or federal employer identification number.

17. **Indemnification:** Vendor agrees to defend, indemnify, and hold harmless the Board, its members, employees, agents, officers and officials from and against liabilities, losses, penalties, damages, and expenses, including costs and attorney fees, arising out of all claims, liens, damages, obligations, actions, suits, judgments or settlements, or causes of action, of every kind, nature, and character (collectively "**Claims**") relating to, or arising or alleged to arise out of the acts or omissions of Vendor, its officials, agents and employees and subcontractors in the performance of this Agreement. The foregoing obligation extends to and is intended to encompass any and all Claims that the Services infringe, misappropriate, or otherwise violate any confidentiality, proprietary, or intellectual property rights of a third party.

Furthermore, in the event that the Board is determined to be liable for taxes under Section 4980H of the Internal Revenue Code as a result of its use of Vendor's employees under this Agreement, Vendor shall indemnify the Board for any such liability. And, in the event of unauthorized access, use, or disclosure of the Board's Confidential Information arising or alleged to arise from the acts or omissions of Vendor, its employees, agents, and subcontractors, in addition to the obligations provided in this Section, Vendor shall cover any costs or fees associated with (i) providing notices of data breach to affected persons and to regulatory bodies and (ii) remedying and otherwise mitigating any potential damages or harm from the data breach, including but not limited to call centers and providing credit monitoring or credit restoration services as may be requested by the Board.

Vendor shall, at its own cost and expense, appear, defend and pay all attorney fees and other costs and expenses arising hereunder. In addition, if any judgment shall be rendered against the Board in any such action, Vendor shall, at its own expense, satisfy and discharge such obligation of the Board. The Board shall have the right, at its own expense, to participate in the defense of any suit, without relieving Vendor of any of its obligations hereunder. The Board retains final approval of any and all settlements or legal strategies which involve the interest of the Board.

However, if Vendor, after receiving notice of any such proceeding, fails to immediately begin the defense of such claim or action, the Board may (without further notice to Vendor) retain counsel and undertake the defense, compromise, or settlement of such claim or action at the expense of Vendor, subject to the right of Vendor to assume the defense of such claim or action at any time prior to settlement, compromise or

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final determination thereof. The cost and expense of counsel retained by the Board in these circumstances shall be borne by Vendor and Vendor shall be bound by, and shall pay the amount of, any settlement, compromise, final determination or judgment reached while the Board was represented by counsel retained by the Board pursuant to this paragraph, or while Vendor was conducting the defense.

To the extent permissible by law, Vendor waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any losses, including any claim by any employee of Vendor that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as *Kotecki v. Cyclops Welding Corp.*, 146 Ill.2d 155 (1991)). The Board, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, or any other statute or judicial decision.

The indemnities set forth herein shall survive the expiration or termination of this Agreement.

18. **Non-Liability of Board Officials:** Vendor agrees that no Board member, employee, agent, officer or official shall be personally charged by Vendor, its members if a joint venture, or any subcontractors with any liability or expense under the Agreement or be held personally liable under this Agreement to Vendor, its members if a joint venture, or any subcontractors.

19. **Notices:** All notices, requests, consents, approvals, acknowledgements and waivers under this Agreement will be in writing and delivered to the applicable party, addressed to the designee for notification purposes set forth below:

To Vendor:

Bio-Reference Laboratories, Inc.  
481 Edward H. Ross Drive  
Elmwood Park, NJ 07407  
Attn: Ellen Beausang

With a copy to:

Bio-Reference Laboratories, Inc.  
481 Edward H. Ross Drive  
Elmwood Park, NJ 07407  
Attn: Legal Department

To the Board:

Board of Education of the City of Chicago  
42 West Madison Street  
Chicago, IL 60602  
Attn: Chief Health Officer

With a copy to:

General Counsel  
Board of Education of City of Chicago  
One North Dearborn  
Ninth Floor  
Chicago, IL 60602

Notice will be deemed given: (A) when verified by written receipt if sent by personal courier, overnight courier, or when received if sent by mail without verification of receipt; or (B) when verified by automated receipt. A party may change its address or designee for notification purposes by giving the other party written notice of the new address or designee and the date upon which it will become effective.

20. **Governing Law:** This Agreement shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois. Vendor irrevocably submits itself to the original jurisdiction of those courts located in the County of Cook, State of Illinois, with regard to any controversy arising out, or relating to, or in any way concerning the execution or performance of this Agreement. Vendor agrees that service of process on Vendor may be made, at the option of the Board, by either registered or certified



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mail in accordance with the Notice Section of this Agreement. If any action is brought by Vendor against the Board concerning this Agreement, the action shall only be brought in those courts located within the County of Cook, State of Illinois.

21. **Insurance:** Vendor, at Vendor's own expense, shall procure and maintain insurance for all operations under this Agreement, whether performed by Vendor or by subcontractors. All insurers shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or a comparable rating service. Vendor shall submit to the Board satisfactory evidence of insurance coverage prior to commencement of Services. Minimum insurance requirements include the coverage set forth below and any additional coverage which may be specified by the Board:

21.1. **Workers' Compensation and Employers' Liability Insurance:** Workers' Compensation Insurance affording workers' compensation benefits for all employees as required by Illinois law and Employers' Liability Insurance covering all employees who are to provide Services under this Agreement with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence. The workers' compensation policy shall contain a waiver of subrogation clause.

21.2. **Commercial General Liability Insurance:** Commercial General Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate for bodily injury, personal injury and property damage liability. Coverage shall include, but not be limited to: all operations, contractual liability, independent contractors, products/completed operations (for a minimum of two (2) years following completion) and defense. Vendor agrees to continue insurance meeting these requirements for a minimum of two (2) years following termination or expiration of this Agreement. Vendor's Commercial General Liability policy cannot exclude claims or limits regarding sexual abuse and molestation.

21.3. **Sexual Abuse & Molestation:** If Vendor does not have separate Sexual Abuse & Molestation Insurance, then Vendor's Commercial General Liability policy must include and not exclude Sexual Abuse & Molestation with limits of not less than One Million Dollars (\$1,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) in the aggregate. If coverage is claims made, the policy shall have a retroactive date effective upon the Effective Date of the Agreement and have extended reporting period of not less than two (2) years following completion of the Agreement. Any retroactive date or prior act exclusion must predate the Effective Date of this Agreement and any earlier commencement of Services.

21.4. **Automobile Liability Insurance:** Automobile Liability Insurance when any motor vehicle (whether owned, non-owned or hired) is used in connection with Services to be performed, with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damages.

21.5. **Professional Liability/Errors & Omissions:** When any architects, engineers, construction managers or other professional contractors perform any Insurable Operations in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than Ten Million Dollars (\$10,000,000.00). Coverage must include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of any Insurable Operations. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years.

21.6. **Cyber Liability and Privacy & Security Insurance:** Cyber Liability and Privacy & Security Coverage for damages arising from a failure of computer security, or wrongful release of private information, including expenses for notification as required by local, state or federal guidelines, with limits of liability not less than Ten Million Dollars (\$10,000,000.00) per claim. Coverage shall include failure to prevent transmission of malicious code. The policy will be a claims-made program with any prior acts exclusion predating both the date of this Agreement and any earlier commencement of Services. Such coverage shall either be maintained continuously for a period of 2 years after

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expiration or termination of this Contract or proposer must secure a 2-year extended reporting provision.

21.7. **Umbrella/Excess Liability Insurance:** Umbrella or Excess Liability Insurance with limits not less than Two Million Dollars (\$2,000,000.00) per occurrence, which will provide additional limits for employers', general and automobile liability insurance and shall cover the Board and its employees, subject to that of the primary coverage.

21.8. **Additional Insured:** Vendor shall have its General, Umbrella, and Automobile Liability Insurance policies endorsed to provide that "the Board of Education of the City of Chicago, a body politic and corporate, and its members, employees and agents, and any other entity as may be designated by the Board are named as additional insured on a primary basis without recourse or right of contribution from the Board".

The insurance company, or its representative, shall submit an insurance certificate evidencing all coverage as required hereunder and indicating the Additional Insured status as required above. The Board will not pay Vendor for any Services if satisfactory proof of insurance is not provided by Vendor prior to the performance of Services. The Certificate must provide thirty (30) days prior written notice of material change, cancellation, or non-renewal be given to:

Risk Management  
Board of Education of the City of Chicago  
42 W. Madison  
Chicago, IL 60602  
[riskmanagement@cps.edu](mailto:riskmanagement@cps.edu)

Any failure of the Board to demand or receive proof of insurance coverage shall not constitute a waiver of Vendor's obligation to obtain the required insurance. The receipt of any certificate does not constitute an agreement by the Board that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. Vendor's failure to carry or document required insurance shall constitute a breach of Vendor's agreement with the Board. In the event Vendor fails to fulfill the insurance requirements of this Agreement, the Board reserves the right to stop the Services until proper evidence of insurance is provided, or this Agreement may be terminated.

Any deductibles or self-insured retentions on referenced insurance coverage must be borne by Vendor. Any insurance or self-insurance programs maintained by the Board of Education do not contribute with insurance provided by Vendor under the Agreement.

All subcontractors are subject to the same insurance requirements of Vendor unless otherwise specified in this Agreement. Vendor shall require any subcontractors under this Agreement to maintain comparable insurance naming Vendor, the Board inclusive of its members, employees and agents, and any other entity designated by the Board, as Additional Insureds. Vendor will maintain a file of subcontractor's insurance certificates evidencing compliance with these requirements.

The coverages and limits furnished by Vendor in no way limit Vendor's liabilities and responsibilities specified within the Agreement or by law. The required insurance is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

Vendor agrees that insurers waive their rights of subrogation against the Board.

Vendor must register with the insurance certificate monitoring company designated by the Board stated below, and must maintain a current insurance certificate on file during the entire time of providing services to the Board. Vendor must register and pay the initial annual monitoring fee to

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the insurance certificate monitoring company prior to performing services for the Board. The **initial** annual monitoring fee is currently Twelve Dollars (\$12.00) per year, but is subject to change.

Each year, Vendor will be notified 30 to 45 days prior to the expiration date of their required insurance coverage (highlighted on their latest submitted insurance certificate on file) that they must submit an updated insurance certificate with the insurance certificate monitoring company. Insurance certificate submissions and related annual fees are required to be made online at the dedicated website established by the certificate monitoring company identified below. Questions on submissions and payment options should be directed to the certificate monitoring company.

**Certificate Monitoring Company:**

Topiary Communications, Inc.  
211 W. Wacker Dr.– Suite 220  
Chicago, Illinois 60606  
Phone – (312) 494-5709  
Email – [dans@topiarycomm.net](mailto:dans@topiarycomm.net)

**Website for online registration, insurance certificate submissions and annual fee payments:**  
<http://www.cpsvendorcert.com>

22. **Audit and Document Retention:** Vendor shall permit and cooperate in good faith in any audits by the Board, including its Department of Procurement, or its agents for compliance by Vendor with this Agreement. Vendor will furnish the Board with such information as may be requested relative to the progress, execution, and costs of the Services. Failure of Vendor to comply in full and cooperate with the requests of the Board or its agents shall give the Board, in addition to all other rights and remedies hereunder, the right to charge Vendor for the costs of such audit. Vendor will maintain all records under the Agreement. As used in this Section, “**records**” shall include all correspondence, receipts, vouchers, memoranda, and other data, regardless of type or medium (including emails or other electronically stored data) relating to this Agreement and Vendor’s performance of the Services. All records referenced above will be retained for at least five (5) years after the expiration or termination of this Agreement and shall be subject to inspection and audit by the Board. If any audit, litigation, or other action involving the records is being conducted or has not been resolved, all applicable records must be retained until that proceeding is closed. Vendor will include, in all of its subcontractor agreements for Services, provisions requiring subcontractors to maintain the above-described records and allowing the Board and/or its contractors the same right to inspect and audit said records as set forth herein.

23. **Assignment:** This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that Vendor may not assign this Agreement or any obligations imposed hereunder without the prior written consent of the Board.

24. **Board Not Subject to Taxes:** The federal excise tax does not apply to the Board, and the State of Illinois sales tax does not apply to the Board by virtue of Exemption No. E9997-7109. The amounts to be paid to Vendor hereunder are inclusive of all other taxes that may be levied or based on this Agreement, including without limitation, sales, use, non-resident, value-added, excise, and similar taxes levied or imposed on the Services, but excluding taxes levied or imposed on the income or business privileges of Vendor, which remain the responsibility of Vendor.

25. **M/WBE Program:** Vendor acknowledges that it is familiar with the requirements of the Board’s “*Remedial Program for Minority and Women Owned Business Enterprise Participation in Goods and Services Contracts*”, which is incorporated by reference as if fully set forth herein. Vendor agrees to adhere to the minimum participation goals and to all other applicable MBE/WBE requirements as set forth in the plan. Vendor agrees to submit such documentation in connection with the plan as may be requested by the Board.

Vendor and its subcontractors shall provide all required compliance data with respect to the Remedial Plan via the Board’s electronic system available at <http://cps.diversitycompliance.com>. Vendor and its subcontractors shall be responsible for responding to any requests for data or information by the noted

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response due dates, and shall check the electronic system on a regular basis to manage contact information and contract records. Vendor shall also be responsible for ensuring that all subcontractors have completed all requested items with complete and accurate information and that their contact information is current.

26. **Right of Entry:** Vendor and any of its officers, employees, subcontractors or agents, performing Services hereunder shall be permitted to enter upon Board property in connection with the performance of the Services hereunder, subject to the terms and conditions contained herein and those rules established by the Board and the subject school principal. Vendor shall provide advance notice to the Board whenever applicable, of any such intended entry. Consent to enter upon a site given by the Board shall not create, nor be deemed to imply, the creation of any additional responsibilities on the part of the Board. Vendor shall use, and shall cause each of its officers, employees and agents to use, the highest degree of care when entering upon any property owned by the Board in connection with the Services. In the case of any property owned by the Board, or property owned by and leased from the Board, Vendor will comply and will cause each of its officers, employees, and agents to comply with any and all instructions and requirements for the use of such property, any licenses for which being hereby incorporated by reference. Any and all claims, suits or judgments, costs, or expenses, including reasonable attorney fees, arising from, by reason of, or in connection with any such entries shall be treated in accordance with the applicable terms and conditions of this Agreement, including without limitation, the indemnification provisions contained in this Agreement.

27. **Non-Discrimination:** It shall be an unlawful employment practice for Vendor or any of its subcontractors to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, or other terms, conditions, or privileges of employment, because of such individual's race, color, national origin, religion, sex, gender identity/expression, sexual orientation, age or disability; or to limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, national origin, religion, sex, gender identity/expression, sexual orientation, age, or disability. Vendor shall particularly remain in compliance at all times with: the Civil Rights Act of 1964, 42 U.S.C.A. § 2000a, *et seq.*; the Age Discrimination in Employment Act, 29 U.S.C.A. § 621, *et seq.*; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. § 701, *et seq.*; the Americans with Disabilities Act, 42 U.S.C.A. § 12101, *et seq.*; the Individuals with Disabilities Education Act, 20 U.S.C.A. § 1400 *et seq.*; the Illinois Human Rights Act, 775 ILCS 5/1-101, *et seq.*; the Illinois School Code, 105 ILCS 5/1-1 *et seq.*; the Illinois Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.*; and the Chicago Human Rights Ordinance, ch. 2-160 of the Municipal Code of Chicago, all as may be amended, and all other applicable federal, state, county, and municipal statutes, regulations, ordinances and other laws. Nothing in this paragraph is intended nor shall be construed to create a private right of action against the Board or any of its employees. Furthermore, no part of this paragraph shall be construed to create contractual or other rights or expectations for Vendor's employees or Vendor's subcontractors' employees.

28. **Minimum Wage:** Vendor must comply with the City of Chicago Minimum Wage Ordinance (01-24), as may be amended, and the Board's Minimum Wage Resolution (14-1217-RS2) and any applicable regulations issued by the Board's Chief Procurement Officer. The Board's resolution adopts Chicago Mayoral Executive Order 2014-1. A copy of the Mayoral Order may be downloaded from the Chicago City Clerk's website at: [https://chicityclerk.s3.amazonaws.com/s3fs-public/document\\_uploads/executive-order/2014/Executive-Order-No-2014-1.pdf](https://chicityclerk.s3.amazonaws.com/s3fs-public/document_uploads/executive-order/2014/Executive-Order-No-2014-1.pdf); the Board's Resolution may be downloaded from the Chicago Public School's website at: [http://www.cpsboe.org/content/actions/2014\\_12/14-1217-RS2.pdf](http://www.cpsboe.org/content/actions/2014_12/14-1217-RS2.pdf). In the event of any discrepancy between the summary below and the Resolution and Order, the Resolution and Order shall control.

Vendor must: (i) pay its employees no less than the minimum wage as stated by the City of Chicago ("**Minimum Wage**") for work performed under the Agreement; and (ii) require any subcontractors, sublicensees, or subtenants, to pay their employees no less than the Minimum Wage for work performed under the Agreement.

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The Minimum Wage must be paid to: 1) All employees regularly performing work on property owned or controlled by the Board or at a Board jobsite; and 2) All employees whose regular work entails performing a service for the Board under a Board contract.

Beginning on July 1, 2015, and every July 1 thereafter, the Minimum Wage shall increase in proportion to the increase, if any, in the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor, and shall remain in effect until any subsequent adjustment is made. On or before June 1, 2015, and on or before every June 1 thereafter, the City of Chicago may issue bulletins announcing adjustments to the Minimum Wage for the upcoming year.

The Minimum Wage is not required to be paid to employees whose work is performed in general support of Vendor's operations, does not directly relate to the services provided to the Board under the Agreement, and is included in the contract price as overhead, unless that employee's regularly assigned work location is on property owned or controlled by the Board. It is also not required to be paid by employers that are 501(c)(3) not-for-profits.

The term 'employee' as used herein does not include persons subject to subsection 4(a)(2), subsection 4(a)(3), subsection 4(d), subsection 4(e), or Section 6 of the Illinois Minimum Wage Law, 820 ILCS 105/1 et seq., in force as of the date of this Agreement or as amended. Nevertheless, the Minimum Wage is required to be paid to those workers described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Illinois Minimum Wage Law.

The Minimum Wage is not required to be paid to employees subject to a collective bargaining agreement that provides for different wages than those required by the Board's Resolution, if that collective bargaining agreement was in force prior to December 17, 2014, or if that collective bargaining agreement clearly and specifically waives the requirements of the Resolution.

If the payment of a prevailing wage is required and the prevailing wage is higher than the Minimum Wage, then the Vendor must pay the prevailing wage.

29. **Delivery of Products and Services:** In the event of a strike, sympathy strike, picketing, work stoppage, slowdown, demonstration, or any other lawful or unlawful disruptive activity that impacts Services, Vendor shall ensure continued uninterrupted delivery of Services and Products to the Board in accordance with the terms of the Agreement, or as may be otherwise directed by the Board. Under the aforementioned circumstances, the Board shall have the right to direct Vendor to use any of the following methods to arrange for continued delivery of Products and Services: 1) use of Vendor's non-union employees or an alternative courier to deliver products; 2) delivery of products to an alternative site; 3) use of Board employees to pick up Products from Vendor or Vendor's couriers; or 4) any other alternative means necessary to ensure that Products and Services are timely delivered to the Board without disruption. Vendor shall also enforce any no-strike clauses Vendor has in its collective bargaining agreements when such clauses impact the delivery of any Services or Products under this Agreement. Any alternative delivery methods utilized under this section shall be approved by a representative designated by the Board.

30. **Controlling Agreement:** Vendor shall not request any CPS students or staff including school principals, administrative staff or other CPS employee to sign any form, memorandum of understanding or any other agreement for the delivery of the Services except for those documents specifically approved by the Board under this Agreement. Additionally, the Board and its users shall not be bound by the terms and conditions contained in any clickwrap/clickthrough agreement or license, end user license or any other agreement or license contained or referenced in the products or service or any quote provided by Vendor. Even if a CPS student or staff or other Board user agrees to any agreement or license contained or referenced in the products or services or a quote from Vendor, Vendor acknowledges and agrees that those terms and conditions are null and void and are not binding on the Board. Vendor acknowledges and agrees that the terms and conditions of this Agreement represent the entire agreement of the parties for the Services. No additional terms or conditions shall apply to the Board unless a written amendment to this Agreement is made and signed by the authorized representatives of both parties and approved by the Board's General Counsel.

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31. **Continuing Obligation to Perform:** In the event of any dispute between Vendor and Board, Vendor shall expeditiously and diligently proceed with the performance of all its obligations under this Agreement with a reservation of all rights and remedies it may have under or pursuant to this Agreement at law or in equity.
32. **Conflict of Interest:** This Agreement is not legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3, which restricts the employment of, or the letting of contracts to, former Board members within a one year period following expiration or other termination of their office.
33. **Indebtedness:** Vendor agrees to comply with the Board's Indebtedness Policy adopted June 26, 1996 (96-0626-PO3), as amended from time to time, which policy is hereby incorporated by reference into and made a part of this Agreement as fully set forth herein.
34. **Freedom of Information Act:** Vendor acknowledges that this Agreement and all documents submitted to the Board related to this contract award are a matter of public record and are subject to the Illinois Freedom of Information Act (5 ILCS 140/1) and any other comparable state and federal laws and that this Agreement is subject to reporting requirements under 105 ILCS 5/10-20.44. Vendor further acknowledges that this Agreement shall be posted on the CPS website.
35. **Ethics:** No officer, agent or employee of the Board is or shall be employed by Vendor or has or shall have a financial interest, directly, or indirectly, in this Agreement or the compensation to be paid hereunder except as may be permitted in writing by the Board's Code of Ethics adopted May 25, 2011 (11-0525-PO2), as amended from time to time, which policy is hereby incorporated by reference into and made a part of this Agreement as if fully set forth herein.
36. **Inspector General:** Each party to this Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Chicago Board of Education has the authority to conduct certain investigations and that the Inspector General will have access to all information and personnel necessary to conduct those investigations.
37. **Waiver:** No delay or omission by the Board to exercise any right hereunder shall be construed as a waiver of any such right and the Board reserves the right to exercise any such right from time to time as often and as may be deemed expedient.
38. **Kickbacks:** Neither Vendor nor any of its members if a joint venture or limited liability company has accepted and shall not accept from or on behalf of any subcontractor or any intermediate tier subcontractor for any payment, gratuity or offer of employment in relation to the Agreement or as inducement for the acceptance of the Agreement. Vendor is and shall remain in compliance with all applicable anti-kickback laws and regulations.
39. **Removal and Reassignment:** Vendor agrees to remove any of its staff or subcontractor's staff from performing Services if the Board, in its sole discretion, believes that such individual is not performing acceptably or is endangering the safety or welfare of any CPS student. Vendor further agrees to bear any costs associated with the removal of such person.
40. **Warranty of Services:** Vendor hereby represents and warrants that its Services will be performed in a manner consistent with the standards of the applicable industry or profession. Vendor warrants that its Services will be performed in a manner that does not damage or corrupt data of the Board. Vendor also warrants that the deliverables submitted to the Board for acceptance will conform to the Scope of Services and will be free of errors or defects in design, material and workmanship. Any repair or replacement of deliverables or portions thereof will be additionally and automatically warranted therein. All warranties will survive inspection, acceptance and payment.
41. **Authority:** Vendor understands and agrees that Vendor is not an authorized representative of the Board or the Chicago Public Schools. All agreements and approvals (written or verbal) of the Board or the Chicago Public Schools must be made by authorized Board employee(s).

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42. **Joint and Several Liability:** In the event that Vendor, or its successors or assigns, if any, is comprised of more than one legal entity, then in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by Vendor shall be the joint and several obligation or undertaking of each such legal entity.

43. **Survival/Severability:** All express representations or indemnifications made or given in this Agreement shall survive the completion of Services or the termination of this Agreement for any reason. If any provision or part of this Agreement is held to be unenforceable, the Agreement shall be considered divisible and such provision shall be deemed inoperative to the extent it is deemed unenforceable, and in all other respects the Agreement shall remain in full force and effect, provided, however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by applicable law.

44. **Entire Agreement and Amendment:** This Agreement, including all exhibits attached to it and incorporated into it, constitutes the entire agreement of the parties with respect to the matters contained herein. All attached exhibits are incorporated into and made a part of this agreement. No modification or amendment to this Agreement shall be effective unless such modification or amendment is in writing and signed by both parties hereto. Any prior agreements or representations, either written or oral, relating to the subject matter of this Agreement are of no force or effect. In the event of a conflict between the terms of this Agreement and any other documents, including but not limited to any terms and conditions that may be attached to the use of any electronic media provided by Vendor, the terms of this Agreement shall supersede and prevail.

45. **Counterparts and Electronic Signature:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one instrument. A signature delivered by facsimile or electronic means shall be considered binding for both parties.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date set forth above.

**BOARD OF EDUCATION OF THE CITY OF CHICAGO**

DocuSigned by:  
*Jonathan Maples*  
By: \_\_\_\_\_  
DDA11008D0234D7...

Date: March 9, 2021  
\_\_\_\_\_

**BIO-REFERENCE LABORATORIES, INC.**

DocuSigned by:  
*Ellen Beausang*  
By: \_\_\_\_\_  
010E277E1ABF4A7...

Name: Ellen Beausang  
\_\_\_\_\_

Date: March 3, 2021  
\_\_\_\_\_

**Board Rule: 21-0127-RS1**

Approved as to Legal Form: <sup>DS</sup> <sup>DS</sup> <sup>DS</sup>

DocuSigned by:  
*Joseph T. Moriarty*  
By: \_\_\_\_\_  
574EC69C33144C5...  
Joseph T. Moriarty  
General Counsel

**Attachments:**

- Exhibit A: Scope of Services
- Exhibit B: Budget
- Exhibit C: Vendor's HIPAA Obligations
- Exhibit D: Information, Integration, and Data Management Standards
- Exhibit E: Scope of Data Collected



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**EXHIBIT A****SCOPE OF SERVICES****Board's Project Manager:** Alexandra Sontag**E-mail:** [assontag@cps.edu](mailto:assontag@cps.edu)**Vendor's Project Manager:** Ellen Beausang**E-mail:** [ebeausang@bioreference.com](mailto:ebeausang@bioreference.com)**Period of Performance: Start Date:** 3/1/21**End Date:** 6/30/21

This Scope of Services ("**Scope**") will be conducted pursuant to the terms and conditions of the Services Agreement ("**Agreement**") date March 1, 2021 by and between Bio-Reference Laboratories, Inc. ("**Vendor**") and Board of Education of the City of Chicago commonly known as the Chicago Public Schools (the "**Board**" or "**CPS**"). Defined terms used in this Scope of Services shall have the same meanings as those ascribed to such terms in the Agreement.

**1. Overview of Services**

Beginning March 1, 2021, CPS will launch a COVID-19 testing program (the "**Program**") for select CPS students. CPS students will be eligible to be part of the Program (the "**Eligible Students**") if students meet the following requirements:

- a. 1) The student attends a CPS school within the ten Chicago zip codes with the highest numbers of daily average COVID-19 cases ("**High Prevalence Zip Codes**"), 2) the student is in a CPS high school cluster program, or 3) the student is participating in CPS athletics The High Prevalence Zip Codes will be determined according to the CDPH COVID-19 Dashboard; and
- b. The student has returned a consent form consenting to being tested for COVID-19 by Vendor and to having Vendor share the results of that test with the student's parent/guardian who provided consent (where applicable), the Illinois Department of Public Health, and CPS. Students under the age of 18 years old will have their parents or guardians consent to them being tested in advance of testing. Students who are 18 years old or older who have the capacity to consent may consent on their own behalf to being tested under the Program. Students who are 18 years old or older who do not have the capacity to consent will have their guardian consent in advance of testing to be tested.

The qualifications regarding which CPS students qualify as Eligible Students under the Program may be expanded upon mutual agreement of the parties. Following the execution of the contract, the parties will enter a written operational plan detailing the operational processes for collecting specimens from Eligible Students each week, as well as the volume of students to be offered testing weekly. This plan will remain subject to change upon the mutual agreement of the parties during Term of the Agreement. Weekly, Vendor must have the capacity to test at least 5,000 students across 120 - 150 CPS schools. This number is subject to change at CPS' discretion.

CPS will promptly communicate any material changes to testing volumes to Vendor at least twenty-four (24) hours in advance to provide Vendor with adequate time to modify staffing and specimen collection supplies to accommodate such changes. Only students who provide all required signed parental/guardian consent forms will be considered Eligible Students. The consent forms will be provided by CPS to Eligible Students. CPS and Vendor will mutually agree upon whether CPS or the Vendor will store the consent forms. The High-Prevalence Zip Codes will be updated minimally monthly to account for changes in daily average COVID-19 cases over time. Vendor shall demonstrate flexibility and partnership to support the Program as it continually evolves.

**1. Scope of Services**

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#### a. Implementation/Specimen Collection at CPS Schools

Vendor will provide Services on-site at CPS schools or any other CPS designated facilities on a weekly basis. These Services will include, but are not limited to, performing PCR tests in its CLIA certified high complexity laboratory facilities, setting up and carrying out a specimen collection and testing process and workflow to support that process, providing all supplies to operate the Program, providing and training all staff providing Services under the Program, and traveling to schools to conduct specimen collection. All Services are described in detail below.

Vendor is responsible for developing and carrying out a specimen collection and testing process and workflow for the Program. Vendor must all source and maintain sufficient inventory of all supplies required to complete the specimen collection and testing workflow. Vendor will bring all necessary supplies required to execute the workflow to each specimen collection location. This includes, but is not limited to, collection supplies, Personal Protective Equipment (“PPE”), cleaning supplies, biohazard disposal supplies and return shipping supplies.

At the selected CPS schools and/or other CPS designated facilities, Vendor will provide specimen collection services in the space identified by each school or facility. Vendor’s representatives will reach out to the schools directly to coordinate arrival times and will communicate arrival time if the specimen collection team is running late. specimen collection will be offered generally during school hours of operations, typically approximately 8:30 am to 3:30 pm. These hours are subject to change upon agreement of the parties. School hours will vary depending on the school. specimen collection teams agree to on-site supervision by CPS employees. Upon arrival at each school or facility, the specimen collection teams will meet with the CPS on-site supervisor to review logistics for the day, including the volume of specimens to be collected and amount of time they expect to take with specimen collection from students. Vendor agrees to allow CPS to direct patients to collection space, ensuring proper patient flow. PPE, disinfectants, technology, and specimen collection supplies will be provided by Vendor and those supplies will be carried in and carried-out by Vendor. Vendor will also provide signage for the specimen collection area at each school or facility.

The Board will identify and communicate all specimen collection locations (address and specific location within the building) to execute the specimen collection workflow. Vendor will test all selected Eligible Students each week using nasal-based PCR tests. Vendor must provide enough tests to test each of the students tested each week (approximately 5,000 students per week). The PCR tests supplied and utilized by Vendor are authorized for use on a pediatric population.

With respect to cleaning procedures, Vendor will only be responsible for cleaning and sanitizing the specimen collection area space. Vendor shall use EPA approved or authorized products to clean and

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disinfect the testing area. Vendor shall clean and disinfect all surfaces touched by students between students.

Vendor must provide the Board with school specific daily reporting of total number tests performed, the volume of positive and negative PCR tests each day, and any individuals scheduled to come through the specimen collection work flow but did not do so. Vendor must also report the number of testing specimens that are unsatisfactory and could not yield a result.

Vendor will be responsible for transporting PCR specimens from schools to Vendor's lab for processing. Vendor shall maintain and document chain of custody appropriately for all specimens throughout the test flow process.

**b. Registration, Scheduling, and Resulting**

To complete testing, Vendor will provide specimen collection teams of at least two (2) people, with an average of four (4) people, to collect specimens from Eligible Students at CPS schools. Vendor will deploy enough specimen collection teams to support the Program each day. Each team will consist of staff authorized by the state to perform COVID-19 nasal swab collection and staff who can assist with administrative duties. All specimen collection staff will be supervised centrally by Dr. James Weisberger, Vendor's Chief Medical Officer.

Vendor's specimen collection teams will be responsible for collecting specimens from all Eligible Students selected for testing each week and traveling to the different school or CPS facility locations for specimen collection. Vendor is responsible for providing all transportation for staff to travel between schools and facilities. Vendor is also responsible for disposal of all medical waste from the Program.

CPS will provide the Vendor with the testing schedule for a month of testing at a time. The testing schedule will contain the list of schools or facilities where students will have specimens collected for PCR testing each month. Vendor will then create a detailed specimen collection schedule that will allow for ample time at each site by factoring in the volume of specimens to be collected and tests to be performed and the presence of multiple schools or facilities at certain sites. Any changes to the schedule will be made at least a week in advance so affected school(s) or facilities can be notified in advance. These changes may include the addition or subtraction of schools from the testing schedule. Vendor will also provide a list of staff and contact information for staff going to each school five days prior to the beginning of testing. Changes to scheduling will be communicated by Vendor to the Board and from the Board to Vendor as soon as possible when they occur. CPS will provide a student roster for testing services at least twenty-four (24) hours prior to testing. Vendor will pre-register students for testing using the list of consented students provided by CPS, along with patient registration data (listed below).

When specimens are collected from students, the specimens will be collected by Vendor's specimen collection teams. Their test specimen will then be labeled by Vendor's team and transported to Vendor's laboratory in a controlled temperature environment. When test specimens are dropped at Vendor's laboratory, Vendor will use a prioritization process to ensure speedy turnaround time. Vendor will then process specimens at its lab before providing results.

Whenever a test result is available, results will provide results via patient portal ("**Patient Portal**"), email or over phone. When results are ready, regardless of the result, Vendor will send an email or text notification prompting patients or their guardians to log into Vendor's Patient Portal in order to view results (provided email or telephone numbers are available). For positive results, Vendor will also make phone calls as further specified below. The full process for providing test results to participants is listed below:

1. Vendor's Patient Portal

- The Patient Portal includes access to Vendor's laboratory results and educational content

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- Result level educational content can be customized for the Program, assuming it is reviewed and agreed upon by Vendor's medical, legal, and compliance teams
- The Patient Portal is only accessible by participants (or their parents/guardians) age 18 and older
- Participants who register for the Patient Portal must confirm their identity when registering using a process called Knowledge Based Authentication ("KBA"). The Patient Portal uses a third-party service to query public and commercial records based on the demographics provided during registration to present the user with a series of questions that only they should be able to answer. If answered correctly, the user will have access to view their results in the portal.
- The Patient Portal is a secure, HIPAA compliant, web-based portal for participants to view lab results
- The Patient Portal's responsive design enables access from any standard computer or smart phone with connectivity
- The Patient Portal provides easy to understand lab results, including relevant educational content

2. Secure Email

- Vendor will deliver individual results to participants via secure email, if proper consent is captured prior to the result being released, and an email address is associated to the order

3. By Telephone

- Vendor will deliver individual results to participants over the phone, if proper consent is captured prior to the result being released, and a telephone number is associated to the order
- Vendor offers translation and interpretation services through TransPerfect. TransPerfect offers interpretation services for over 170 languages. Translators are available within an average of 12 seconds
- Vendor will call CPS students who are 18 and over and can consent for their own care, in all other cases Vendor will call parent/guardian(s) when a positive test is reported. Vendor will make two additional attempts by phone before the end of the second calendar day following the completion of the diagnostic test if the student/parent/guardian cannot be reached on the first call. A voicemail will be left for the student or their guardian asking them to call back to receive a result, but results will never be left via voicemail. Vendor places calls between 7am and 8pm, seven days a week and positive results available after 8 pm ET are reported after 7 am ET the following day.
- Vendor provides results to positive students or their parents/guardians across multiple languages including Arabic, Bengali, Chinese, English, French, Haitian Creole, Korean, Russian, Spanish, and Urdu.

All tests will be completed within a maximum of 48 hours from specimen receipt into the laboratory facility. Any tests with results pending beyond 48 hours will be addressed by a representative designated by Vendor. This appointed person will be responsible for providing regular updates to CPS about tests

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pending beyond 48 hours, including measures being taken to resolve delayed results (re-running results, fixing specimen issues, etc.). Notwithstanding the foregoing, the parties recognize Vendor's compliance with federal or state testing prioritization mandates and/or vendor supply chain issues could disrupt Vendor's ability to timely perform COVID-19 testing and, while test results are anticipated to always be provided in a maximum of 48 hours, Vendor cannot guarantee that time window if extreme circumstances arise.

Vendor will have a registration and scheduling platform available to CPS for use to facilitate registration and scheduling. Use of this platform will be at CPS' discretion. If this platform is utilized prior to registration, Vendor will provide a unique registration URL that is specific to CPS, a landing page with customizable copy, and the ability to apply a custom logo (if desired and approved by CPS).

If Vendor's platform is utilized, to register for COVID-19 testing, the information listed below must be provided.

- The user of the platform will be prompted to enter at minimum the following required fields for the student being tested:
  - Name
  - Home Address
  - Date of Birth
  - Sex at Birth
  - Phone number
  - Email address
- Additional data fields or survey questions can be configured by Vendor as directed by CPS and as needed to support the Program and/or comply with applicable federal and state reporting requirements.

**c. Lab Testing**

Vendor's testing methodologies have all been determined by the Center for Disease Control and Prevention ("CDC") and U.S. Food and Drug Administration ("FDA") to be acceptable emergency use authorized tests. Vendor performs molecular COVID-19 tests and uses the "short swab" technique. Vendor will only use nasopharyngeal or nasal swabs collection techniques employed in the anterior nares.

Vendor will perform all COVID-19 PCR testing for CPS at its Elmwood Park, New Jersey location. Vendor's other laboratory locations will serve as backup laboratories if and when Elmwood Park is unable to process specimens. The specimens will be collected at the school or facility locations selected by CPS and then transported to Vendor's laboratory locations where they will be accessioned and then tested on one of Vendor's Emergency Use Authorization ("EUA") FDA authorized instruments. All test specimens will be transported by Vendor to its labs in a temperature regulated environment.

Vendor will continue to look at all emerging technologies and adapt testing to the needs of the patients and communities. If a new technology emerges that the Board and Vendor agrees is a more effective testing technology, Vendor will agree to utilize that technology if directed to do so by the Board.

Vendor uses FDA EUA platforms for real time RT-PCR testing for COVID-19. Real time RT-PCR Testing is a nuclear-derived method for detecting the presence of specific genetic material in any pathogen. Vendor has utilized the following four platforms:

- 1) Roche assay: COBAS 8800
- 2) ThermoFisher assay: APPLIED BIOSYSTEMS 7500 FAST DX and THERMOFISHER QUANT12KFLEX
- 3) Hologic assay: PANTHER FUSION
- 4) Seegene assay: BIO-RAD CFX96

Under the Program, Vendor will comply with all applicable standards under the Clinical Laboratory Improvement Amendments of 1988 ("CLIA") and College of American Pathologists. Vendor further operates a CLIA-certified laboratory, where it runs its PCR tests and can report results back to the individual

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and CPS within 48 hours of receiving the test sample. Vendor's lab has the capacity to process a minimum of ten thousand (10,000) tests weekly for CPS. Vendor's lab also has the capability to process larger test numbers in the event that CPS expands the Program.

If Vendor cannot analyze a specimen because of improper collection or degradation in process, or is unable to obtain satisfactory test results, Vendor will notify Board and arrange for any resampling necessary. In the event Board engages Vendor for multiple rounds of testing, Vendor will work together with Board to reduce non-reportable results through mutual efforts.

**d. Reporting**

Vendor will submit daily reports for real-time engagement with CPS schools. Vendor will deliver a file of positive results to CPS' designee three times per day, seven days per week, at 5am, 12pm, and 5:30pm CT each day.

Vendor delineates the newly positive cases in each report and will also send a file at 5:30pm CT each day that includes specimen collections scheduled that day, specimens actually collected that day, number positives, number negatives, number pending, number cancelled/otherwise not resulted, and the status of notification for the student or parent or guardian of the tested student. The report will also include the number of results where the vendor attempted notification of the student, or the parent/guardian of the result. Daily reports will also include the number of specimens collected that day and the number of positive results generated from prior tests, broken down by specimen collection team/location and date. Vendor will ensure that all test results are reported consistent with state and federal obligations.

Vendor's reporting system is HIPAA-compliant and will be used to share results of tests with the student (when the student is 18 years or older and has the capacity to consent), the parent or guardian who consent to the student being tested (where applicable), the Illinois Department of Public Health, and CPS. All Software and electronic platforms used are operated in accordance with the Information, Integration, and Data Management Standards attached and incorporated into this Agreement as Exhibit D. Furthermore, all Student Data collected by Vendor is listed in Exhibit E, Scope of Data Collected.

When reporting to the Illinois Department of Public Health, whenever the below data points are captured, Vendor will report the information below to the Illinois Department of Public Health. In the list below, all references to "patient" shall be understood to be references to "student" for purposes of this Agreement.

Data to be Reported by Vendor to the Illinois Department of Public Health

1. Performing Lab
2. Receiving Application
3. Receiving Facility
4. Accession
5. Patient ID
6. Patient Last Name
7. Patient First Name
8. Patient DOB
9. Patient Gender
10. Patient Race
11. Patient Ethnicity
12. Patient Address
13. Patient Phone
14. Patient Email
15. Guarantor Last Name
16. Guarantor First Name
17. Guarantor Middle Name
18. Guarantor Suffix

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19. Guarantor Prefix
20. Ordering Physician
21. Provider Last Name
22. Provider First Name
23. Provider Phone
24. Provider Address
25. Test Performed
26. Draw Date/Time
27. Service Date/Time
28. Specimen Source
29. Reporting Date/Time
30. Accession Status
31. Result
32. Units
33. Reference Range
34. High/Low Flag
35. Result Status
36. Analyzed Date/Time
37. Performing Location
38. Instrument ID
39. NTE Text

## 2. Requirements When Entering CPS Facilities

Vendor is responsible for following and ensuring that its employees, subcontractors, volunteers, and agents follow all CPS rules, guidelines and policies regarding access to CPS buildings and use of CPS space, including, but is not limited to, the following policies:

- Maintaining adequate social distancing of at least six feet while in CPS facilities
- Wearing a face mask at all times. Every individual must wear a mask at all times while in CPS facilities
- Every individual entering a CPS facility must complete a two-step health screening process.
  - All individuals entering a CPS facility will fill out CPS health screener (located at <https://chicagopsprod.service-now.com/health>)
    - Individuals who successfully fill out the CPS health screener will be verified by a CPS employee upon arrival
    - Individuals who fail to complete the screener in advance will be required to fill out the screener on-site
    - Individuals who fail the CPS health screener will not be allowed entry into any CPS facilities
  - Have temperature checked at the door

## 3. Timeline

### March 4, 2021

- Launch the Program
  - Be prepared for full scale operation of the Program, recognizing that the Vendor and CPS will work together to prioritize background screening of all Vendor personnel.

## 4. Key Personnel

The individuals listed below are employed by the Vendor and have particular expertise on which the Board is relying (“**Key Personnel**”). Vendor may not reassign or replace Key Personnel without the written consent of the Board, which consent shall not be unreasonably withheld or delayed. If one or more Key Personnel terminate his or her employment with Vendor or otherwise become unavailable for

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reasons beyond Vendor's reasonable control, Vendor shall promptly replace such person with another person with comparable training and experience, subject to the approval of the Board, which approval shall not be unreasonably withheld or delayed. The Board shall have the right to direct Vendor to remove an individual from performing Services under the Agreement for cause.

<b>Team Member and Role</b>	<b>Key Responsibilities</b>	<b>Team Type</b>
<b>Ellen Beausang</b> Sr. Vice President Advanced Diagnostics	Relationship, contacting and operational oversight	Executive Leadership and Advisory Panel
<b>James Weisberger, M.D.</b> Chief Medical Officer	Available for relevant clinical/testing questions	Executive Leadership and Advisory Panel
<b>Jane Pine Wood</b> Chief Legal Officer	Legal and compliance questions	Executive Leadership and Advisory Panel
<b>Craig Allen</b> Chief Operating Officer	Responsible, with his team, for development of operations and logistics for on-site sample collection and transportation	Executive Leadership and Advisory Panel
<b>Regina Stewart</b> Sr. Vice President Clinical Lab Operations	Responsible, along with her team, for overseeing the specimen process once it is received in the laboratory	Executive Leadership and Advisory Panel
<b>Sue Aveta</b> On-site Specimen Collection Leader	Responsible for resource allocation, competency, training of field based specimen collectors and related activities	Work Thread Leads
<b>Lee Gough</b> Billing Lead	Director, revenue cycle management	Work Thread Leads
<b>Cory Fishkin</b> Physician Experience IT	Responsible for all physician portal experience matters and integration activities	Work Thread Leads
<b>Vinny Pacione</b> Patient Experience IT	Responsible for patient digital experience activities including registration, scheduling, and results delivery	Work Thread Leads
<b>John Boucard, MBA</b> Director, Operations Initiatives	The lead program director on this project, overseeing the end-to-end value stream and coordinating the activities therein	Work Thread Leads



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5. **Deliverables**

- Provide nasal based PCR tests approved for use on a pediatric population
- Provide trained staff to administer the Program
- Provide a low-cost and reliable courier solution to transport specimens from schools or other CPS facilities to Vendor's lab for processing
- Provide test results in under 48 hours
- Provide access to a HIPAA-compliant reporting system to share results of tests with parents/guardians, students, CPS and the Illinois Department of Public Health
- Manage the reporting of all testing to parents/guardians, students, CPS and the Illinois Department of Public Health
- Report the volume of testing completed at each CPS school, as well as the number of PCR tests that are positive, negative, and that are unsatisfactory and could not yield a result
- Provide laboratory capacity to handle up to 10,000 tests weekly and an opportunity for CPS to expand testing in the future

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**EXHIBIT B****BUDGET**

<b>Cost Detail</b>	<b>Additional Description</b>	<b>Price</b>	<b>Unit of Measure</b>
<b>COVID-19 PCR Testing</b>	Per-Test-Basis	\$80	Per Test

The above \$80 per test fee is an all-inclusive fee. This fee includes the cost of staffing, materials for collection, transport, processing of test specimens, and the reporting of results. All testing will be performed by Vendor's certified and licensed laboratory facilities.

Vendor will not bill individuals or third-party payors for specimen collection or performance of the tests.

The maximum compensation payable to Vendor during the Term of this Agreement shall not exceed Thirteen Million Dollars (\$13,000,000.000) ("**Maximum Compensation Amount**"), as may be amended. It is understood and agreed that the Maximum Compensation Amount is a 'not-to-exceed amount' and is not a guaranteed payment. Compensation shall be based on actual Services performed during the Term of this Agreement, and the Board shall not be obligated to pay for any Services or other deliverables not in compliance with this Agreement. No expenses shall be reimbursed under this Agreement. In the event the Agreement is terminated early, the Board shall only be obligated to pay the fees incurred up to the effective date of termination and Vendor shall promptly refund to the Board any payments received from Services and deliverables not provided. In the event that the Maximum Compensation Amount is reached prior to the end of the Term, Vendor shall have no obligation to provide Services that would cause the amount owed to Vendor to exceed the Maximum Compensation Amount unless the parties execute an amendment to this Agreement to address an increase in the Maximum Compensation Amount.

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**EXHIBIT C**

**VENDOR'S HIPAA OBLIGATIONS**

At all times Vendor agrees to comply with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"), as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "**CFR**"). In the event of conflicting terms or conditions, this Section shall supersede the other provisions of the Agreement.

1. **Definitions.** Capitalized terms not otherwise defined in the Agreement shall have the meanings given to them in Title 45, Parts 160 and 164 of the CFR and are incorporated herein by reference.
2. **Use and Disclosure of Protected Health Information.** Vendor shall use and/or disclose Protected Health Information ("**PHI**") only to the extent necessary to satisfy Vendor's obligations under the Agreement.
3. **Prohibition on Unauthorized Use or Disclosure of PHI.** Vendor shall not use or disclose any PHI received from or on behalf of the Board, except as permitted or required by the Agreement, as required by law or as otherwise authorized in writing by the Board. Vendor shall comply with: (a) Title 45, Part 164 of the CFR; (b) State laws, rules and regulations applicable to PHI not preempted pursuant to Title 45, Part 160, Subpart B of the CFR; and (c) the Board's health information privacy and security policies and procedures.
4. **Vendor's Operations.** Vendor may use PHI it creates or receives for or from the Board only to the extent necessary to carry out Vendor's legal responsibilities. Vendor may disclose such PHI as necessary for Vendor's legal responsibilities only if:
  - a. The disclosure is required by law; or
  - b. Vendor obtains reasonable assurance, evidenced by written agreement, from any person or organization to which Vendor shall disclose such PHI that such person or organization shall:
    - i. Hold such PHI in confidence and use or further disclose it only for the purpose for which Vendor disclosed it to the person or organization or as required by law; and
    - ii. Notify Vendor (who shall in turn promptly notify the Board) of any instance of which the person or organization becomes aware in which the confidentiality of such PHI was breached.
5. **PID Safeguards.** Vendor shall develop, implement, maintain and use appropriate administrative, technical and physical safeguards to prevent the improper use or disclosure of any PHI received from or on behalf of the Board, or developed by Vendor (including its Staff and subcontractors) for the Board.
6. **Electronic Health Information Security and Integrity.** Vendor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures in compliance with Section 1173(d) of the Social Security Act, Title 42, Section 1320d 2 (d) of the United States Code and Title 45, Part 142 of the CFR to preserve the integrity and confidentiality of all electronically maintained or transmitted Health Information received from or on behalf of the Board pertaining to

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an individual. Vendor shall document and keep these security measures current.

7. **Protection of Exchanged Information in Electronic Transactions.** If Vendor conducts any standard transaction for or on behalf of the Board, Vendor shall comply, and shall require any subcontractor or agent conducting such standard transaction to comply, with each applicable requirement of Title 45, Part 162 of the CFR. Vendor shall not enter into or permit its subcontractors or agents to enter into any trading partner agreement in connection with the conduct of standard transactions for or on behalf of the Board that: (a) changes the definition, Health Information condition or use of a Health Information element or segment in a standard; (b) adds any Health Information elements or segments to the maximum defined Health Information set; (c) uses any code or Health Information elements that are either marked "not used" in the standard's implementation specification or are not in the standard's implementation specification(s); or (d) changes the meaning or intent of the standard's implementation specification(s).
8. **Access to PII.** In addition to the Audit and Document retention provisions found in the Agreement, Vendor shall provide access, at the request of the Board, to PHI in a Designated Record Set, to the Board or, as directed by the Board, to an individual to meet the requirements under Title 45, Part 164, Subpart E, Section 164.524 of the CPR and applicable state law. Vendor shall provide access in the time and manner set forth in the Board's health information privacy and security policies and procedures.
9. **Amending PHI.** Vendor shall make any amendment(s) to PHI in a Designated Record Set that the Board directs or agrees to pursuant to Title 45, Part 164, Subpart E, Section 164.526 of the CFR at the request of the Board or an individual, and in the time and manner set forth in the Board's health information privacy and security policies and procedures.
10. **Accounting of Disclosures of PHI.**
  - a. Vendor shall document such disclosures of PHI and information related to such disclosures as would be required for the Board to respond to a request by an individual for an accounting of disclosures of PHI in accordance with Title 45, Part 164, Subpart E, Section 164.528 of the CFR.
  - b. Vendor agrees to provide the Board or an individual, in the time and manner set forth in the Board's health information privacy and security policies and procedures, information collected in accordance with Section 10 (i) above, to permit the Board to respond to a request by an individual for an accounting of disclosures of PHI in accordance with Title 45, Part 164, Subpart E, Section 164.528 of the CPR.
11. **Access to Books and Records.** Vendor shall make its internal practices, books and records relating to the use and disclosure of PHI received from or on behalf of the Board available to the Board and to the Department of Health and Human Services ("**DHHS**") or its designee for the purpose of determining the Board's compliance with the Privacy Rule.
12. **Reporting.** Vendor shall report to the Board any use or disclosure of PHI not authorized by the Agreement, by law, or in writing by the Board. Vendor shall make the report to the Board's Privacy Official not less than 24 hours after Vendor learns of such unauthorized use or disclosure. Vendor's report shall at least: (a) identify

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the nature of the unauthorized use or disclosure; (b) identify the PHI used or disclosed; (c) identify who made the unauthorized use or received the unauthorized disclosure; (d) identify what Vendor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; (e) identify what corrective action Vendor has taken or shall take to prevent future similar unauthorized use or disclosure; and (f) provide such other information, including a written report, as reasonably requested by the Board's Privacy Official.

13. **Mitigation.** Vendor agrees to mitigate, to the extent practicable, any harmful effect that is known to Vendor of a use or disclosure of PHI by Vendor in violation of the requirements of the Agreement.
14. **Return or Destruction of Health Information.**
  - a. Except as provided in Section 14(ii) below, upon termination, cancellation, expiration or other conclusion of the Agreement, Vendor shall return to the Board or destroy all PHI received from the Board, or created or received by Vendor on behalf of the Board. This provision shall apply to PHI that is in the possession of subcontractors or agents of Vendor. Vendor shall retain no copies of the PHI.
  - b. In the event that Vendor determines that returning or destroying the PHI is infeasible, Vendor shall provide to the Board notification of the conditions that make return or destruction infeasible. Upon verification by the Board that the return or destruction of PHI is infeasible, Vendor shall extend the protections of the Agreement to such PHI and limit further uses and disclosure of PHI to those purposes that make the return or destruction infeasible, for so long as Vendor maintains such PHI.
15. **Automatic Amendment.** Upon the effective date of any amendment to the regulations promulgated by DHHS with respect to PID, the Agreement shall automatically amend such that the obligations imposed on Vendor as a Vendor remain in compliance with such regulations.
16. **Subcontractors and Agents.** Vendor shall require each of its subcontractors or agents who provide Work hereunder, or to whom Vendor may provide PHI or other Confidential Information received from, or created or received by Vendor on behalf of the Board, to agree to written contractual provisions that impose at least the same obligations of ownership and obligations to protect such PHI and other Confidential Information as are imposed on Vendor by the Agreement.
17. **Survival and Material Breach.** It is understood and agreed that the provisions of this Section shall survive the termination or expiration of this Agreement. Moreover, it is further understood and agreed that Vendor's non-compliance with any of its obligations and responsibilities under this Section shall constitute a material breach of this Agreement, and the Board also shall have the right to withhold payments due under this Agreement until Vendor remedies any and all such non-compliance to the Board's reasonable satisfaction.

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## Exhibit D

### **Information, Integration, and Data Management Standards**

Information, Integrations, and Data Management are central capabilities needed to deliver information optimally, and to realize service value. Within most modern solutions data and interfacing is needed for both internal CPS and external systems.

Vendor must capabilities must include the following, at a minimum:

- Must employ experts to work, in collaboration with CPS IT and business experts
- Aligned with district academic and administrative data management programs, which include aligning with IMS Global Standard for open operability, or allowing for open data exchange (for all data within the proposed system) using sfp, 3rd party API's like Clever, or an open API for data exchanges.
- Ability to maintain logs of activities, status, and functional state of the solution
- Have an application architecture built with security in mind, using the latest industry techniques
- The hosted environment must be redundant, with no single points of failure, and have the capacity to handle District demands, and have the capabilities needed to recover from data loss or corruption
- Able to enable reporting and analytics (BI)
- Able to schedule routine imports and exports of data in an automated fashion
- Quality controls for data management within the user interface, and within data synchronization routines
- Leverage the CPS system of record for identity and access management (Rapid ID / SAML for single sign on)
- For third party integrations - Document purpose, data exchanges, utility of integration, method of integrations, provide geography of operations, the name of the third party, and a formal CPS IT approval
- For educational platforms, support One-roster / IMS Global protocols

A more comprehensive explanation of the requirements above are described in the sections below.

#### **Audit History**

The Solution should maintain a complete history of all data including the user identification and timestamp for data creation, updates and deletions to support a complete audit history; this includes persistence of deleted data ("**Soft Deletes**") for all key entities as determined by Board requirements. Reporting on audit history shall be easy and efficient, preferably including out of the box reports summarizing data changes.

#### **Data Integrations**

The Solution should support both ad hoc and automated import, export, and update of all necessary data for the in scope systems, at appropriate frequencies, including near-real-time. For platforms supporting digital learning then the solution must support IMS global / One-Roster protocols. Employee assessment results will only be exportable at an anonymized, aggregate level.

#### **Data Accessibility**

Vendor shall support both ad hoc and automated extract of all data from the Solution at appropriate frequencies.

#### **Portability**

It is critical that CPS be able to retrieve its data and applications from the solution and move it into different CPS environments, or directly to a new Solution at the expiration or termination of any applicable contract with the Vendor. If the Solution uses proprietary software and formats to store customer data or applications, it may end up being very difficult to retrieve applications and data in a usable format; if this

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condition exists then Vendor shall transform the data for CPS consumption. In addition, CPS may need to retrieve data to respond to a Freedom of Information Act (“**FOIA**”) request or otherwise uphold its legal obligations. Assessment results are only stored at an anonymized, aggregated level.

### Data Validation

Integration of multiple datasets together can be fraught with difficulty, including inconsistent fields, missing datasets, and conflicting sets of information. The Vendor solution will need rules to ensure referential integrity between datasets:

- Ensure that primary keys in one dataset are indeed unique, even compound primary keys
- Ensure that foreign keys in one file match the primary keys in another file
- Validation that all other fields are well formed, and cleaned as required

In the data integration environment, it's also important that data issues can be quickly acted upon. Vendor shall provide the following options:

- Automatic quarantining of data to ensure that invalid data is not ingested. Even if this is only part of a file, the invalid data is removed and the remainder quarantined
- Email alerts when data issues are identified so they can quickly be escalated us when jobs are not synchronized

### Data Management

- The Vendor will not copy any CPS data to any media, including hard drives, flash drives, or other electronic devices, other than as expressly approved by CPS, unless the media are appropriately protected.
- Vendor shall return or destroy all confidential information received from CPS, or created or received by Vendor on behalf of CPS.
- In the event that Vendor determines that returning or destroying the confidential information is infeasible, Vendor shall notify CPS of the conditions that make return or destruction infeasible, but such plans will be approved by CPS.
- If CPS agrees that return or destruction of confidential information is infeasible; Vendor shall extend the protections for such confidential information and limit further uses and disclosures of such confidential information.
- Return all data that is the property of CPS in an electronic format, via an online secure service, such as SFTP, or a shared storage facility security.
- The Solution should support the latest encryption and SSL in motion and at rest for PII (Personally identifiable information).
- Security practices regarding secure application development must be documented.
- Data exchanges with CPS shall be done in an automated fashion.

### Data Conversion and Validation

The Vendor must provide human resources to partner with the CPS Enterprise Data Team to document the proper conversion mapping and perform test validation for any/all bi-directional data exchanges, or any automation.

### Data Protection

Data shall be protected with the latest backup technologies, and be backed up daily, with retention of no less than 30 days, and for the duration of the agreement. Protection techniques shall exist within the

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production and DR environments, where information is hosted and protected in the United States for student information.

### **Identity and Access Management**

- Must be in compliance with the CPS Security and Access Control policies (<https://cps.edu/AcceptableUsePolicy/Pages/platformGuidelines.aspx>)
- Ensure that any consumer, including a 3rd party vendor's employees or subcontractor to whom access is granted agrees to the same restrictions, standards, and conditions that apply through the contract with CPS, and that access to CPS data is approved by CPS.
- Ensure that any consumer, including a subcontractor, employee, or another 3rd party to whom access to data and/or information systems, agrees to implement reasonable and appropriate safeguards to ensure the confidentiality, integrity, and availability of the data and information systems.
- Maintain a security plan that complies with NIST,ISO 27000 series and CPS approved security policies.
- Report to the CIO of CPS within 24 hours of discovery of any security incidents that occur within solution / information systems that may affect CPS systems.
- Maintain audit events according to policy and provide this information to CPS upon request. These audit logs must be kept according to CPS's records retention policy for student records.
- Develop and implement policies and procedures regarding the use of information systems that describes how users are to protect against intrusion, tampering, viruses, etc.
- Authentication mechanism and integration with Active Directory. Should support user account and password requirements and is compatible with the latest version of SAML, Google, Rapid ID, or other CPS approved SSO service platform.
- Documented security controls in place to protect sensitive and/or confidential information.



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**Exhibit E**

**Scope of Data Collected**

This Scope of Data Collected (“**Data Collected**”) will be conducted pursuant to the terms and conditions of the Services Agreement (“**Agreement**”) by and between the Board of Education of the City of Chicago, commonly known as the Chicago Public Schools (the “**Board**” or “**CPS**”), and Bio-Reference Laboratories, Inc (the “**Vendor**”). Defined terms used in this Scope will have the same meanings as those ascribed to such terms in the Agreement. If there is any conflict between this Scope of Data Collected and the Agreement, the Agreement shall govern and control

<p>1. <b><u>Student Data Required:</u></b> Vendor requires the following Student Data elements necessary to provide the Services under this Agreement:</p>	<p>When parent/guardian consent to testing is provided for students, and the students are under the age of 18 or the students are over the age of 18 but do not have the capacity to consent, the following student data will be collected:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Student First and Last Name</li> <li><input type="checkbox"/> Student Date of Birth</li> <li><input type="checkbox"/> Covid-19 Test Result (Positive, Negative, Unsatisfactory)</li> <li><input type="checkbox"/> Student gender</li> <li><input type="checkbox"/> Student ethnicity</li> <li><input type="checkbox"/> Student race</li> </ul> <p>When a student is 18 years of age or older and has the capacity to consent and has consented to testing, the following student data will be collected:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Student First and Last Name</li> <li><input type="checkbox"/> Student Date of Birth</li> <li><input type="checkbox"/> Covid-19 Test Result (Positive, Negative, Unsatisfactory)</li> <li><input type="checkbox"/> Student gender</li> <li><input type="checkbox"/> Student ethnicity</li> <li><input type="checkbox"/> Student race</li> <li><input type="checkbox"/> Student email</li> <li><input type="checkbox"/> Student telephone number</li> </ul>
<p>2. <b><u>Student Data Usage:</u></b> Please describe how each aforementioned Student Data element will be used by the Vendor under this Agreement:</p>	<p>The aforementioned data is collected to be able to label test specimens and provide test results.</p>
<p>3. <b><u>Deliverables:</u></b> Vendor will use the aforementioned Student Data in order to provide COVID-19 student testing services.</p>	