

THIS AGREEMENT SHALL BE POSTED ON THE CPS WEBSITE.

## **PRODUCTS AND SERVICES AGREEMENT**

***(Learning Sciences International, LLC)***

This PRODUCTS AND SERVICES AGREEMENT ("**Agreement**") is effective as of the 15th day of March, 2021 ("**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 the Chicago Public Schools with offices located 42 West Madison Street, Chicago, Illinois 60602 (the "**Board**" or "**CPS**") and Learning Sciences International, LLC, a Pennsylvania limited liability company with offices located at 175 Cornell Road, Suite 18, Blairsville, Pennsylvania 15717 ("**Provider**").

### **RECITALS**

1. The Board desires that Provider render Services more fully described herein;
2. The Board desires that Provider provide access to the Software as defined in the attached Scope of Services to collaborate with the Board to develop a strategic plan of targeted professional development, coaching supports, and customize metrics, including types of evidence observers will look for during instructional rounds to assess quality of instruction; and
3. Provider 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.

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

1. **Term of Agreement:** The term of this Agreement will be for a period commencing on March 15, 2021 and continuing through March 15, 2022 (the "**Term**"). The Board shall have two (2) options to renew the Agreement for a period of one (1) year (each a "**Renewal Term**") by entering into a written renewal agreement with the Provider.

2. **Scope of Services:** Provider agrees to provide the Products, as defined below, and Services set forth in Exhibit A ("**Scope of Services**"), in accordance with the terms and conditions of this Agreement. "Services" means, collectively, the services, deliverables, duties and responsibilities described in the Scope of Services that is attached to and incorporated into this Agreement as Exhibit A, as may be amended in accordance with the terms of this Agreement, and any and all 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, including but not limited to any increase or decrease in Provider's compensation, shall be documented by a written amendment to this Agreement signed by the authorized representatives of both parties and the Board's General Counsel.

2.1 **Products:** Includes any technology, regardless of means of use, delivery and storage, including but not limited to direct distribution of Software, as defined in Exhibit A, downloadable media, mobile application, cloud computing services, and/or through access to a secure website or open access website and any updates, bug fixes, patches, operational modifications or corrections, components, equipment or accessories that are necessary for the operation of the technology as proposed by Provider and accepted by the Board.

3. **Compensation, Purchase Orders and Payment:**

3.1 **Compensation:** Compensation for Services during the Term payable to Provider, and the schedule and method of compensation, are set forth in Section III of Exhibit A ("**Budget**"). The total maximum compensation payable to Provider during the Term shall not exceed Two Hundred

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Forty-Three Thousand Nine Hundred Fifty-Five and 00/100 Dollars (\$243,955.00) ("**Maximum Compensation Amount**"), without the prior approval of the members of the Board and a written amendment to this Agreement.

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 Provider shall promptly refund to the Board any payments received from Services and deliverables not provided.

3.2 Purchase Order. Any purchases by the Board of Services covered by this Agreement will be completed by submitting an order on the Board's Standard Purchase Order Form ("**PO**"). The terms and conditions found on the PO shall apply to the extent that such terms supplement and are not inconsistent with the terms and conditions contained in this Agreement. Under no circumstances shall provide any Services without a valid PO.

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 your Provider name and the CPS Purchase Order number. All invoices must include:

- Provider name and payment address
- Unique invoice number (determined by Provider)
- Valid purchase order number (only one PO number may be referenced on each invoice)
- Invoice date
- Itemized description of the services rendered and/or goods delivered
- Date the services were provided and/or 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 this Agreement. If Provider 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 this Agreement.

3.4 Electronic Payments: Provider agrees that, at the Board's sole discretion, the Board may make payment electronically to Provider for any and all amounts due by means of the Board's procurement charge card account. Provider 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. Provider 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. Provider 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 and Contracts.

4. Personnel: Provider must assign and maintain during the term of this Agreement an adequate staff of competent personnel that is fully assigned, licensed as appropriate, available as needed, qualified and assigned to perform the Services. For the avoidance of doubt, all volunteers of Provider shall be considered agents of Provider and subject to the same requirements hereunder as Provider's paid employees and subcontractors. If the Board determines, in its sole discretion, that any employee, subcontractor or other person providing Services hereunder is not performing in accordance with the

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performance standards or other requirements of this Agreement, the Board shall have the right to direct Provider to remove such personnel from the Board's account and provide replacement(s) in a timely manner. In the event that the Board has concerns that an individual poses a risk to the safety or welfare of the Board's students or staff, Provider agrees that such personnel shall be removed from the Board's account immediately and shall have no further contact with the Board's employees, agents, and students. Provider further agrees to bear any costs associated with the removal of such person.

**5. Standards of Performance:** Provider 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 supply all Services effectively and efficiently and to the satisfaction of the Chief Procurement Officer. Provider shall retain and utilize, as required by law or by this Agreement, professionals licensed to practice in the State of Illinois in the applicable profession. As of the signing of this Agreement, there are no specific professional licenses required for any of the Provider's Staff, however, in the event this requirement changes throughout the Term or any Renewal thereof, Provider shall ensure Staff hold and maintain the necessary certificates and licenses. Provider shall use efficient business administration methods and perform the Services in a professional and workmanlike manner in accordance with generally recognized industry 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 supplied 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. Provider 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, Provider agrees to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Services or deliverables or payment for any of the Services by the Board does not relieve Provider of its responsibility for the professional skill, care, and technical accuracy of its Services and deliverables. Provider shall remain responsible for the professional and technical accuracy of all Services, including any deliverables furnished, whether by Provider or its subcontractors or others on its behalf.

**6. Technical Information:** Prior to the execution of this Agreement, Provider supplied CPS's Department of Information Technology Services ("**ITS**") with information regarding its Product, including but not limited to the security and technical environment (collectively "**Technical Information**"). Provider is required to advise the Board's ITS Program Manager if the Technical Information for any Product(s) or Program(s) changes in any way during the Term of this Agreement, including any Renewal Terms. Any changes that, in the Board's sole determination, do not result in the disqualification of the Products shall be documented by completion of a Change Order Form of Technical Information, a template of which is attached and incorporated into this Agreement as Exhibit B that will be signed by the Board's Chief Information Officer and the Board's ITS Program Manager, or a designee for each, and Provider's authorized representative and then made a part of this Agreement. No other terms or conditions of this Agreement may be changed via the Change Order Form for Technical Information and any attempt to do so shall be void. Changes that result in the disqualification of the Product shall be documented in a written amendment to this Agreement signed by the Board's Chief Information Officer and the Provider's authorized representative and approved by the Board's General Counsel.

**7. License, Implementation, Hosting, and Support:** Provider shall assure that the following will apply to Products, as necessary and applicable:

7.1 License. Provider hereby grants to the Board a non-exclusive, worldwide, non-transferable, royalty-free (except for fees specified in this Agreement) license to use the Products for the Term of the Agreement and any Renewal Terms or as otherwise specifically stated in the purchase order for the associated Product ("**License**"). The Products and any accompanying documentation shall at all times remain the sole and exclusive property of Provider or, alternatively, the sole and exclusive property of a third party from whom Provider has obtained all necessary rights and permissions to sub-license the Products to the Board. The Board shall not sell, lease, license or otherwise transfer, use or dispose of the Products outside of the CPS except as expressly provided herein. The Board shall not copy or knowingly permit the copying by any third party of the Products (other than for a reasonable number of back-up copies, where applicable) or

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distribute, market, sell, rent, transfer, sublicense or assign to any third party any portion of the Products except as permitted under this Agreement. The Board shall not make any alterations, additions or modifications, create derivative works, decompile, disassemble or reverse engineer the Products without the prior written consent of Provider.

7.2 Permissible Board Actions. Nothing in this Section shall prevent the Board, its employees and representatives from sharing reports and data generated from Provider's Products and Services with other Providers of the Board as may be necessary to receive and evaluate the Products and Services for the Board's purposes.

7.3 Implementation of the Products. Where applicable and/or necessary, Provider shall provide installation, configuration, and implementation support for the Products so that it is accessible through the Board's computers and other compatible devices.

7.4 Licensed Users. Provider shall provide a username and password for each licensed user of the Products, if applicable. "**Licensed Users**" or "**Board Users**" may be specified by the Provider but usually means those schools, classrooms, administrators, teachers, students, or parents/legal guardians licensed to access the Products. The number of Licenses provided shall be limited to the amount specified in the attached Exhibit A and shall be in effect through the Term or any Renewal Term, unless specifically stated otherwise by Provider and accepted by CPS in an addendum signed by the authorized representative of the Board and with the written approval of the Board's General Counsel. Unless specifically stated otherwise, a Licensed User may continue to use the License throughout the Term or any Renewal Term of this Agreement, regardless of any transfer to any other CPS school during that Term.

7.5 Products Maintenance. During the Term of this Agreement and any Renewal Terms, Provider shall be solely responsible for maintenance of the Products and accessibility to the Board.

7.6 Products Support. Provider shall provide the maintenance and support services to the Board for the use of the Products.

7.7 Controlling Agreement. Provider shall not request any CPS students or staff including school principals, administrative staff, or other CPS employees to sign any form, memorandum of understanding or other agreement for the delivery of the Products and Services except for those documents specifically approved by the Board under this Agreement. 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 agreement or any other agreement or license contained or referenced in the Products or any quote provided by Provider. Even if a Board User agrees to any agreement or license contained or referenced in the Products or a quote from Provider, Provider acknowledges and agrees that those terms and conditions are null and void and are not binding on the Board. Rather, Provider acknowledges and agrees that the terms and conditions of this Agreement represent the entire agreement of the parties for the Products and 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.

7.8 Hosting of the Products and Data. Provider shall host the Products and the Board's data Subject to the terms and conditions of this Agreement and to Exhibit B attached hereto and incorporated herein of this Agreement.

7.9 Compatibility and Data Flow. Provider shall ensure that data flows properly between the Board's computers and other compatible devices and Provider's Products, Products and Services in accordance with the Exhibits that are attached and incorporated into this Agreement, as may be amended. Provider must ensure that any other resources that are supplied by Provider to the Board, incorporated by Provider, or approved or recommended by Provider for use by the Board in connection with the Products, Products and Services, are fully compatible with, and must not

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materially and adversely affect, or be materially and adversely affected by, each other or the other hardware, software, equipment, network components, systems, services, and other resources that are owned or leased by, or licensed to, the Board (collectively, the “**Board Resources**”). At all times, Provider must cooperate and work as requested with the other service providers of the Board to coordinate the development and the provision of Products and Services with the services and systems of such other service providers. Provider shall have no obligation under this Agreement to ensure that the Board maintains an active internet connection. Any unavailability of the Products due to the Board's lack of an internet connection, unless such lack of an internet connection is caused by Provider or Provider's Products or Services, shall be the sole responsibility of the Board.

**8. 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 Provider 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 Provider except that no payment shall be made or due to Provider under this Agreement beyond those amounts appropriated and budgeted by the Board to fund payments under this Agreement.

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

9.1 **Early Termination:** The Board may terminate this Agreement in whole or in part, without cause, at any time, by written notice from the Board to Provider in accordance with the notice provisions herein. The effective date of termination shall be thirty (30) calendar days from the date the notice is received or the date stated in the notice, whichever is later.

After notice is received, Provider 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. Payment for any Services actually and satisfactorily delivered before the effective date of the termination is on the same basis as set forth herein in the provision regarding compensation and payment.

Provider 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. Provider shall not be entitled to make any early termination claims against the Board resulting from any subcontractor's claims against Provider or the Board to the extent inconsistent with this provision.

9.2 **Suspension of Services:** The Board may request that Provider suspend Services in whole or part. Provider 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 Provider. Responsibility for any additional costs or expenses actually incurred by Provider as a result of remobilization shall be determined by mutual agreement of the parties.

9.3 **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 Provider that affects the safety and/or welfare of students or Board staff;
- B. Any material misrepresentation by Provider in the inducement of the Agreement or the performance of Services;
- C. Breach of any term, condition, representation or warranty made by Provider in the Agreement;



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- D. Failure of Provider to perform any of its obligations under this Agreement, including, but not limited to, the following:
1. Failure to perform any portion of the Services in the manner specified in this Agreement;
  2. Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services;
  3. Failure to promptly re-perform, within a reasonable time and at no cost to the Board, Services that were determined by the Board to be incomplete or unsatisfactory;
  4. Failure to perform the Services in a manner satisfactory to the Board, or inability to perform the Services satisfactorily for reasons within Provider's reasonable control;
  5. 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.
- E. Default by Provider under any other agreement Provider may presently have or may enter into with the Board; and
- F. Assignment by Provider for the benefit of creditors or consent by Provider to the appointment of a trustee or receiver or the filing by or against Provider of any petition or proceeding under any bankruptcy, insolvency or similar law that is not dismissed within sixty (60) days of the date of its filing.

9.4 **Remedies:** The Board in its sole discretion may declare Provider in default if Provider commits an Event of Default. The Chief Procurement Officer may in her or his sole discretion give Provider an opportunity to cure the default within a certain period of time (the "**Cure Period**"). The Chief Procurement Officer shall give Provider written notice of the default, either in the form of a cure notice ("**Cure Notice**") or, if no opportunity to cure is granted, a default notice ("**Default Notice**").

The Chief Procurement Officer may give a Default Notice after a Cure Notice if: (1) Provider 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 the Cure Period, Provider 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, effective on Provider's receipt of such notice or on the date set forth in the notice, whichever is later. When a Default Notice is given, Provider must discontinue all Services unless otherwise specifically directed in the notice, and Provider must deliver to the Board all materials prepared or created in the performance of this Agreement, whether completed or in-process.

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, either directly or through others, as agent for and at the cost of Provider. In such an event, Provider shall be liable to the Board for any costs incurred by the Board. Any amount due Provider under this Agreement or any other agreement Provider 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 performed effective at a time specified by the Board;
- C. Suspend the performance of Services during the Cure Period if the default results from Provider's action or failure to act which affects the safety or welfare of

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students or Board staff. In the event that the performance of Services is resumed, Provider shall not be entitled to seek reimbursement from the Board for any additional costs and expenses incurred as a result of the remobilization;

- D. Seek specific performance, an injunction or any other appropriate equitable remedy;
- E. Receive from Provider 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 Provider's compensation under this Agreement that are due or future payments that may become due under this Agreement; and
- H. Deem Provider non-responsible in future contracts to be awarded by the Board pursuant to the Board's Debarment Policy (19-0626-PO1), as may be amended from time to time.

The Board may elect not to declare Provider in default or to terminate this Agreement. The parties acknowledge that this provision is solely for the benefit of the Board and that if the Board permits Provider to continue to perform the Services despite one or more Events of Default, Provider 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 by statute, nor shall the Board be deemed to have waived or relinquished any of the rights it has to declare an Event of Default in the future. If the Chief Procurement Officer decides not to terminate, then she or he may decide at any time thereafter to terminate this Agreement, in whole or in part, in a subsequent Default Notice.

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.

**9.5 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, Provider 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 Provider may keep a copy of such information necessary for its own records, subject to other restrictions contained in this Agreement regarding the retention and use of this information.

**10. Assignment:** This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that neither party may assign the Agreement or any obligations imposed hereunder without the prior written consent of the other party.

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

11.1 Confidential Information: In the performance of the Agreement, Provider may have access to or receive certain information that is not generally known to others ("**Confidential Information**"). Provider acknowledges that Confidential Information includes, but is not limited to, proprietary information, copyrighted material, educational records, De-Identified Data, Student Data as defined below, employee data, information relating to health records, and other information of a personal nature. Confidential Information will not include information that: (i) was in Provider's possession before receipt from Board; (ii) is or becomes part of the public domain through no fault of Provider; (iii) can be established and documented by Provider to have been independently developed by Provider without violating the confidentiality obligations of this Agreement and any other agreements with the Board; (vi) is rightfully received by Provider from a third party without a duty of confidentiality on the third party; or (v) is disclosed under operation of law.

11.2 Student Data: "**Student Data**" means any data, metadata, information, records, or other materials of any nature recorded in any form whatsoever, that is generated, disclosed, maintained by, transmitted, created, or provided by the Board, either directly or through its students, employees, agents, and subcontractors, and all information used, created, maintained or generated through the use of any technology, including but not limited to the Products (as defined in this Agreement) by the Board, its employees, agents, subcontractors, students, parents or legal guardians of any CPS students. For purposes of this Agreement, Student Data is Confidential Information hereunder; additional requirements regarding Student Data specifically are described below.

11.3 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. Provider 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.

11.4 Use of Confidential Information: Provider shall only use Confidential Information for the sole purpose of delivering the Products and 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 obligations set forth in this Agreement. Provider 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 solely to deliver the Services and Products under this Agreement and strictly in accordance with the terms of this Agreement. Provider shall use at least the same standard of care in the protection of Confidential Information as Provider uses to protect its own confidential information, but in any event, such Confidential Information shall be protected in at least a commercially reasonable manner and in compliance with all applicable laws. Notwithstanding the foregoing, it is understood and agreed that such protection of Confidential Information shall be subject to the special requirements of the Family Educational Rights and Privacy Act ("**FERPA**"), the Student Online Personal Protection Act ("**SOPPA**"), the Children's Online Privacy Protection Act ("**COPPA**"), and the Illinois School Student Records Act ("**ISSRA**").

11.5 Handling of Confidential Information: Provider 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 Provider's own confidential information. When handling Confidential Information which may include, but is not limited to Student Data, Provider 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



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confirmation

receipt;

- B. Not store any Confidential Information on portable or removable electronic media, such as CDs, DVDs, electronic tape, flash drives, etc.;
- 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. Provider 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. Provider 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 to, disclosure and use of that information. These measures include appropriate administrative, physical, and technical safeguards, policies, procedures, and technical elements relating to data access controls. All Confidential Information must be secured in transit using secure FTP services or https/TLS 1.0+. Provider 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 Provider's Services and supporting enterprise complies with applicable data protection and privacy laws, as well as the terms and conditions of the Agreement;
- H. Conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Provider 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. Provider agrees to share its incident response plan upon request;
- I. Ensure that its systems and Services include at least the following safeguards, where applicable:
  - 1. Include component and system level fault tolerance and redundancy in system design;
  - 2. Encrypt user passwords in any data storage location and obfuscate password entry fields in any entry interface controlled by Provider;
  - 3. Encrypt Confidential Information at rest and in transit;
  - 4. Authentication of users at logins with a 256-bit or higher encryption algorithm;
  - 5. Secure transmissions of login credentials;
  - 6. Automatic password change routine;
  - 7. Trace user system access via a combination of system logs and Google Analytics;

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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 prevention system that inspects incoming data transmissions;
  11. Prevention of hostile and unauthorized intrusion; and
  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. Provider's network where Confidential Information may be stored shall have an in-line intrusion prevention system that inspects incoming data transmissions. Provider shall have a documented disaster covered 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. Also, the prior approval of the Board's ITS Program Manager or designee for any hosting solution may be required.

11.6 Dissemination of Information. Provider shall not disseminate any Confidential Information to a third party without the prior written consent of the Board. If Provider 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 Provider's possession as a result of Products, Services and/or materials supplied under the Agreement, Provider 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. Provider 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.

11.7 Press Release; Publicity. Provider 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 or delivery of Products and Services without the prior express written consent of the Board's Chief Communications Officer or its designee. Furthermore, Provider 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 its designee.

11.8 Return or Destruction of Confidential Information. Provider shall, at the Board's option, destroy or return all Confidential Information to the Board within five (5) business days of demand, or if no demand is made, it shall destroy or return all Confidential Information to the Board within five (5) days of the expiration or termination of this Agreement unless Provider receives permission in writing from the Board's Chief Education Officer or his/her designee that Provider may retain certain Confidential Information for a specific period of time. In the event the Board elects to have Provider destroy the Confidential Information, Provider shall provide an affidavit attesting to such destruction. Provider shall delete a specific student's Student Data upon the written request of the Board. In the event that Provider is permitted to retain certain Confidential Information, such information shall be protected and handled in accordance with the terms of this Agreement for as long as Provider is permitted to retain such Confidential Information.

11.9 Unauthorized Access, Use or Disclosure. If Provider has knowledge of any unauthorized access, use and/or disclosure of Confidential Information, it shall: (i) notify the Board immediately,

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which in no event shall be longer than seventy-two (72) hours from Provider receiving notice of the unauthorized access, use, or disclosure; (ii) take prompt and appropriate action to prevent further unauthorized access, use, or disclosure; (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 law; and (iv) take such other actions as the Board may reasonably direct to remedy such unauthorized access, use, or disclosure, including, if required under any federal or state law, providing notification to the affected persons. Provider shall bear the losses and expenses (including attorneys' fees) associated with a breach of Provider's obligations regarding Confidential Information as set forth in this Agreement, 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 damage 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. Provider shall include this provision in any and all agreements they execute with subcontractors performing Services under this Agreement.

**11.10 Additional Obligations Regarding Treatment of Student Data.** In addition to the above stated obligations for the treatment and handling of Confidential Information, Provider shall abide by the following obligations when handling, receiving, storing, transmitting or otherwise accessing Student Data:

**A. Student Data Use.** Provider shall not use Student Data, including persistent unique identifiers, data created or gathered by Provider's site, Products, Services, and Products, 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. Provider will use Student Data only for the purpose of fulfilling its duties and delivering Products and Services under this Agreement.

**B. Student Data Collection.** Provider shall not collect Student Data except as specifically permitted hereunder and as necessary to fulfill its duties as outlined in this Agreement.

**C. Marketing and Advertising.** Provider shall not advertise or market to schools, students or their parents/guardians when the advertising is based upon any Student Data that Provider has acquired because of the use of that Provider's site, Products, Services, or this Agreement.

**D. Student Data Mining.** Provider is prohibited from mining Student Data for any purpose. Student Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents/guardians is prohibited.

**E. Student Data Transfer or Destruction.** Provider will ensure that all Student Data in its possession and in the possession of any subcontractors, or agents to whom Provider 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.** 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 and delivery of Products 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 Provider any rights, implied or otherwise, to Student Data, content, or intellectual property. Provider does **not** have the right to sell or trade Student Data.

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G. **Sale of Student Data.** Provider is prohibited from selling, trading, or otherwise transferring Student Data.

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

I. **Data Integration & Management.** Products must align to IMS Global interoperability standards for data exchanges and authentication (One Roster, or Google Single Sign On / SSO).

11.11 Destruction of Confidential Information: Upon the later of either (i) Provider's completion of any Services, or (ii) termination or expiration of this Agreement ("**Ending Event**"), and with the exception of Student Data which shall be destroyed or transferred pursuant to Section 11.9(E) below, Provider shall cease using and destroy all Confidential Information furnished by the Board or collected by Provider in performance under this Agreement unless otherwise directed by the Board. Provider shall destroy all Confidential Information within fifteen (15) business days of an Ending Event and provide a written affidavit to the Board that Provider has complied with the requirement of this provision to destroy such items.

11.12 Injunctive Relief: In the event of a breach or threatened breach of this Section, Provider 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, Provider 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.

11.13 Data Security Manager: Provider shall provide the Board with the name and contact information for a primary and alternate employee of Provider who shall serve as the Board's primary security contact and who shall be available to assist the Board twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a Student Data-related security breach. The designated contact shall respond to any Board inquiries within two (2) hours.

11.14 Volunteers, Employees, Agents and Subcontractors. Provider agrees to cause its volunteers, employees, agents and subcontractors to undertake the same obligations of confidentiality as agreed to herein by Provider.

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

12. **Ownership:** Provider 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 Copyright Act, 17 U.S.C. § 101 *et seq.* To the extent any Work Product does not qualify as a "work for hire," Provider 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. Provider 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

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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, Provider 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 Provider's possession, such items shall be restored or replaced at Provider's expense.

**13. Press Release; Publicity:** Provider shall not issue publicity news releases, grant press interviews, or use any Confidential Information or intellectual property, including but not limited to the CPS logo or the logos of any schools, during or after the performance of any Services without the prior express written consent of authorized representatives of the Board. Furthermore, Provider 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.

**14. Representations and Warranties of Provider:** Provider 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 and any Renewal Terms:

- A. Licensed Professionals: Provider 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 Provider, its employees, agents, or subcontractors, as applicable, are not appropriately licensed.
- B. Compliance with Laws: Provider 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, ISSRA, FERPA, SOPPA, the Protection of Pupil Rights Amendment, and any others relating to non-discrimination. Further, Provider is and shall remain in compliance with all applicable Board policies and rules. Board policies and rules are available at <http://www.cps.edu/>.
- C. Good Standing: Provider 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.
- D. Authorization: Provider 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 Provider is duly authorized by Provider and has been made with complete and full authority to commit Provider to all terms and conditions of this Agreement which shall constitute valid, binding obligations of Provider.
- E. Financially Solvent: Provider 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.
- F. Gratuities: No payment, gratuity or offer of employment was made by or to Provider, or to the best of Provider's knowledge, by or to any subcontractors, in relation to this Agreement or as an inducement for award of this Agreement. Provider is and shall remain in compliance with all applicable anti-kickback laws and regulations.
- G. Free of Computer Viruses: Provider shall use commercially reasonable best efforts to ensure that its Services and any software, hardware, or any other technology used in Provider's performance of its Services is free of malicious code, malware, Trojan horses, ransomware, worms, and other computer viruses.



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- H. Third Parties' Intellectual Property: In performing and delivering the Services under this Agreement, Provider 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. Provider 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.
- I. Assignment of Warranties. Provider 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.
- J. No Legal Action Preventing Performance. As of the Effective Date, Provider 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 Provider's ability to perform its obligations under this Agreement.
- K. Prohibited Acts: Within the three (3) years prior to the effective date of this Agreement, Provider 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.
- L. Debarment and Suspension: Provider certifies to the best of its knowledge and belief, after due inquiry, that:
1. 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.*);
  2. 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
  3. 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.
- M. Continued Disclosure Requirement: If at any time during the Term of this Agreement, Provider becomes aware of any change in the circumstances that makes the representations and warranties stated above no longer true, Provider must immediately disclose such change to the Board in accordance with the Notice provision of this Agreement;
- N. Survival: All warranties in this Section shall survive inspection, acceptance, payment, expiration, and termination of this Agreement. Nothing in the foregoing warranties shall be

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construed to limit any other rights or remedies available to the Board under the law and this Agreement.

**15. Background Check:** Provider 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”. Provider shall not allow any Staff to have contact with students until Provider 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. Provider 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:

- 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 Provider’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**”). Provider 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, Provider further represents and warrants that Provider shall:

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- 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.** Provider is obligated to cause the Background Check to be performed for all Staff, and Provider shall be responsible for the costs of such Background Check. Whether or not Provider allocates the costs to its subcontractors shall not affect Provider's obligations in this Section.

If Provider 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 Provider may have or enter into with the Board until Provider 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 Provider's non-compliance with this Section shall constitute a material breach of this Agreement.

**16. Research Activities and Data Requests:** Provider shall not conduct research in the Chicago Public Schools or use Confidential Information for research purposes in connection with this Agreement. In the event Provider seeks to conduct research in the Chicago Public Schools or use Confidential Information for research purposes in connection with this Agreement or for any other purposes, Provider shall comply with the Board's External Research Study and Data Policy adopted on December 11, 2019, as may be amended from time to time. Provider acknowledges and agrees that it may not begin any research activities or obtain data for research purposes without the prior written consent of the Director of Performance Data and Policy or his or her designee.

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**17. Independent Contractor:** It is understood and agreed that the relationship of Provider to the Board is and shall continue to be that of an independent contractor and neither Provider nor any of Provider's employees shall be entitled to receive Board employee benefits. Provider is the common law employer of the individuals who perform services for the Board. As an independent contractor, Provider is 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 Provider is subject to taxes under Section 4980H of the Internal Revenue Code, Provider shall be solely responsible for paying such taxes. Provider agrees that Provider, including its employees, staff, and subcontractors shall not represent themselves as employees or agents of the Board. Provider 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.

**18. Indemnification:** Provider 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**") arising out of, alleged to arise out of, or relating to the acts or omissions of Provider, 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 Provider's employees under this Agreement, Provider 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 Provider, its employees, agents, and subcontractors, in addition to the obligations provided in this Section, Provider 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.

Provider 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, Provider 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 Provider 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 Provider, 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 Provider) retain counsel and undertake the defense, compromise, or settlement of such claim or action at the expense of Provider, subject to the right of Provider to assume the defense of such claim or action at any time prior to settlement, compromise or final determination thereof. The cost and expense of counsel retained by the Board in these circumstances shall be borne by Provider and Provider 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 Provider was conducting the defense.

To the extent permissible by law, Provider 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 Provider 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.

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**19. Non-Liability of Board Officials:** Provider agrees that no Board member, employee, agent, officer or official shall be personally charged by Provider, 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 Provider, its members if a joint venture, or any subcontractors.

**20. 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. E9997-7109-06. The amounts to be paid to Provider 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 Provider, which remain the responsibility of Provider.

**21. Notices:** All notices required under this Agreement shall be in writing and sent to the addresses and persons set forth below, or to such other addresses as may be designated by a party in writing. Any notice involving non-performance or termination shall be sent by hand delivery or recognized overnight courier. All other notices may also be sent by facsimile or email, confirmed by mail. All notices shall be deemed to have been given when received, if hand delivered; when transmitted, if transmitted by facsimile or email; upon confirmation of delivery, if sent by recognized overnight courier; and upon receipt if mailed. Refusal to accept delivery has the same effect as receipt.

To Provider, at:

Learning Sciences International, LLC  
Attn: David Tudor  
175 Cornell Road, Suite 18  
Blairsville, PA 15717

and if to the Board, at:

Board of Education of City of Chicago  
Attn: Chief of Teaching and Learning  
42 W. Madison  
Chicago, IL 60602

with a copy to:

Board of Education of City of Chicago  
Attn: General Counsel  
One North Dearborn, 9<sup>th</sup> Floor  
Chicago, IL 60602

**22. Governing Law:** This Agreement shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois. Provider 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. Provider agrees that service of process on Provider may be made, at the option of the Board, by either registered or certified mail in accordance with the Notice Section of this Agreement by registered or certified mail addressed to the office actually maintained by Provider, or by personal delivery on any officer, director, or managing or general agent of Provider. If any action is brought by Provider against the Board concerning this Agreement, the action shall only be brought in those courts located within the County of Cook, State of Illinois.

**23. Insurance.** Provider, at Provider's own expense, shall procure and maintain insurance for all operations under this Agreement, whether performed by Provider 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. Provider shall submit to the Board satisfactory evidence of insurance coverage prior to commencement of



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Services. Minimum insurance requirements include the coverage set forth below and any additional coverage which may be specified by the Board:

- A. 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.
- B. 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.
- C. 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 damage.
- D. Sexual Abuse and Molestation Insurance: Sexual Abuse & Molestation ("**SAM**") Insurance with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per claim and Two Million and 00/100 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 this Agreement. Any retroactive date or prior acts exclusion must predate both the Effective Date of this Agreement and any earlier commencement of Services.
- E. Cyber Liability and Privacy & Security Coverage: Cyber Liability and Privacy and 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 One Million and 00/100 Dollars (\$1,000,000.00) 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 the Effective Date of this Agreement and any earlier commencement of Services.
- F. Professional Liability / Errors and Omissions. If professional services are rendered under this Agreement, Provider shall maintain such coverage with limits of not less than One Million Dollars (\$1,000,000.00) per claim for errors and omissions in conjunction with professional services inclusive of assumption of contractual liability. The policy shall have a retroactive date effective with the commencement of professional services and have an extended reporting period of not less than two (2) years following completion of such professional service.
- G. 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.
- H. Additional Insured: Provider shall have its General Liability, Umbrella and Automobile 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

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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 the Provider for any Services if satisfactory proof of insurance is not provided by Provider prior to the performance of any 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

Any failure of the Board to demand or receive proof of insurance coverage shall not constitute a waiver of Provider'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. Provider's failure to carry or document required insurance shall constitute a breach of Provider's agreement with the Board. In the event Provider 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 Provider. Any insurance or self-insurance programs maintained by the Board of Education do not contribute with insurance provided by the Provider under the Agreement.

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

The coverages and limits furnished by Provider in no way limit the Provider'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.

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

Provider 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. Provider must register and pay the initial annual monitoring fee to 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, Provider 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.

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**Certificate Monitoring Company:**

Topiary Communications Inc.  
211 W. Wacker, Ste 220  
Chicago, IL 60606  
Phone: (312) 494-5709  
Email: [dans@topiarycomm.net](mailto:dans@topiarycomm.net)  
URL: <https://www.cpsvendorcert.com>

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

**24. Audit and Document Retention:** Provider shall permit and cooperate in good faith in any audits by the Board, including its Department of Procurement and Contracts, or its agents for compliance by the Provider with this Agreement. Provider shall furnish the Board with such information, supporting documentation and reports as may be requested relative to the progress, execution and costs of the Services and compliance with applicable MBE/WBE requirements. Failure of the Provider 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 the Provider for the cost of such audit. Provider shall maintain all records under this 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 Provider's performance of Services. All records referenced above shall be retained for at least five (5) years after the termination or expiration 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. Provider shall require all of its subcontractors to maintain the above-described records and allow the Board the same right to inspect and audit said records as set forth herein.

**25. Minimum Wage:** Provider must comply with the Board's Minimum Wage Resolution (14-1217-RS2) and any applicable regulations issued by the Board's CPO. The Board's resolution adopts Chicago Mayoral Executive Order 2014-1. As of December 17, 2014 the minimum wage to be paid pursuant to the Resolution is \$13.00 per hour (the "Minimum Wage"). 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>; 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.

Provider must: (i) pay its employees no less than the 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.

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 Provider'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.

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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 Provider must pay the prevailing wage.

**26. M/WBE Program:** Provider 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 ("**Remedial Plan**"). Provider agrees to adhere to the minimum participation goals and to all other applicable MBE/WBE requirements as set forth in the plan. Provider agrees to submit such documentation in connection with the plan as may be requested by the Board.

Provider 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>. Provider and its subcontractors shall be responsible for responding to any requests for data or information by the noted response due dates, and shall check the electronic system on a regular basis to manage contact information and contract records. Provider 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.

**27. Right of Entry:** Provider 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. Provider shall provide advance notice to the Board whenever applicable, of any such intended entry. Any such entry at any time during the Term, including during full or partial/hybrid closure of CPS schools due to COVID-19: (1) must be expressly approved by the school principal; (2) in compliance with all policies, guidelines, requirements and protocol regarding health, safety and COVID-19 of the Chicago Public Health Department ("**CDPH**"); (3) in compliance with all CPS policies, guidelines, requirements and protocol regarding health, safety and COVID-19, as may be amended, including but not limited to all standards and expectations for on-site programming at schools during remote learning regarding face coverings and social distancing. During any such entry, Provider shall also remain in compliance with all applicable federal, state, county, and municipal, statutes, laws, ordinances, regulations, and guidelines, as well as any Board guidelines, policies, and rules in effect now or later, and as amended from time to time related to COVID-19. 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. Provider 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. 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.

**28. Non-Discrimination:** It shall be an unlawful employment practice for Provider 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

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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. Provider 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 the Provider's employees or the Provider's subcontractors' employees.

**29. 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 authorized representatives of both parties hereto and the Board's General Counsel. Any prior agreements or representations, either written or oral, relating to the subject matter of this Agreement are of no force or effect.

**30. Freedom of Information Act:** Provider acknowledges that this Agreement and all documents submitted to the Board related to this Agreement 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. Provider further acknowledges that this Agreement shall be posted on the Board's website at [www.cps.edu](http://www.cps.edu).

**31. Continuing Obligation to Perform:** In the event of any dispute between Provider and Board, Provider 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:** Provider 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. Ethics:** No officer, agent or employee of the Board is or shall be employed by Provider 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 fully set forth herein.

**35. Inspector General:** Each party to this Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Board of Education of the City of Chicago has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.



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**36. 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.

**37. 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.

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

**39. Counterparts and Electronic Signatures:** 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 electronic means shall be considered binding for both parties.

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**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized officers as of the date first written above.

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

DocuSigned by:  
*Maurice Swinney*  
By: D5FEDE73C7064EF...  
Maurice Swinney, EdD  
Interim Chief Education Officer

July 12, 2021  
Date: \_\_\_\_\_

**LEARNING SCIENCES INTERNATIONAL, LLC**

DocuSigned by:  
*Jennifer Clayton*  
By: 4ED8609CBB2247A...

Name: Jennifer Clayton

Title: Controller

July 9, 2021  
Date: \_\_\_\_\_

Board Report: 20-1216-RS1

Approved as to legal form: <sup>DS</sup>*EA* <sup>DS</sup>*JG* <sup>DS</sup>*JB*

DocuSigned by:  
*Joseph T. Moriarty*  
571EC59C33144C5...  
Joseph Moriarty, General Counsel

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**Attachments:**

Exhibit A: Scope of Services  
Exhibit B: Change Order Form

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## **Exhibit A**

### **SCOPE OF SERVICES**

**Name of Project:** Progress Monitoring - Remote Learning

**CPS Project Manager:** Sherly Chavarria **Phone:** (773) 553-2535 **E-Mail:** schavarria1@cps.edu

**Provider's Project Manager:** David Tudor **Phone:** (404) 387-0365  
**E-Mail:** dtudor@learningsciences.com

**Term:** March 15, 2021 until March 14, 2022

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This Scope of Services shall be conducted pursuant to the terms and conditions of the Products and Services Agreement ("**Agreement**") dated March 15, 2021 by and between the Board of Education of the City of Chicago, a body politic and corporate, commonly known as the Chicago Public Schools (the "**Board**" or "**CPS**") and Learning Sciences International, LLC ("**Provider**" or "**LSI**"). Defined terms used in this Scope of Services shall have the same meanings as those ascribed to such terms in the Agreement.

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#### **1. SCOPE OF SERVICES:** Provider will:

- A. Provide 150 software licenses to the Trend Tracker platform; Virtual RigorWalk and RigorWalk are tools within the Trend Tracker platform that will be included in the 150 licenses provided herein.
- B. Customize metrics, including types of evidence observers will look for during instructional rounds to assess quality of instruction, in Trend Tracker tool to match CPS needs.
- C. Collaborate with the Board to develop a strategic plan of targeted professional development, coaching supports, and identify classroom observation "look-fors";
- D. Provide professional learning to the Board on Provider's Virtual RigorWalk and action boards;
- E. Conduct remote learning instructional rounds with the Licensed Users, as defined below;
- F. Conduct root cause analysis with the Licensed Users, as defined below, based on instructional rounds data;
- G. Analyze and review with the Licensed Users, as defined below, of virtual classroom observation data trends; and
- H. Provide the Board's ONS and Teaching and Learning Leadership with mid and end of year data analysis reports;
- I. Provide the Board with technical resources needed to configure LSI Trend Tracker, with Virtual RigorWalk and RigorWalk, and meet delivery and data management requirements outlined in Sections 6 and 7 of this Scope, below.

#### **2. DELIVERABLES:**

Provider will provide CPS access to its proprietary software: LSI Trend Tracker ("**Trend Tracker**") and Virtual RigorWalk and RigorWalk (collectively, the "**Software**"). Provider will customize metrics in the Trend Tracker tool for CPS. The Software is a research validated instrument that Provider will use to customize professional learning for CPS. Participants, or Licensed Users, as defined below, will become well versed in the Provider's Software. The Software was developed from 2 million proprietary data points of research from schools evaluated by LSI to identify pillars of school success. Each pillar is assessed through technology-based surveys, classroom observations, and facilitated coaching solely created by LSI.

CPS will have access to 150 Software licenses to be used by Central Office Staff, Network Staff, and school administrators ("**Licensed Users**"). Licensed Users will use their own devices to access the Software made

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available by Provider.

Software will:

- provide CPS with an easy to use, practical data collection system and data analysis process to help schools identify leading classroom instructional practices data trends within the virtual learning environment; student data will not be shared
- offer real-time classroom practice data focused on the daily practice of teachers in the learning environment
- use scientifically validated indicators, correlated to State Assessments, to identify trends in data and develop an overall picture of schoolwide rigor
- provide data to CPS leaders that will allow them to complete a root cause analysis, identify problems and develop systemic solutions

Provider will:

- develop a strategic plan of targeted professional development, coaching supports, and identify classroom observation “look-fors”
- provide professional learning to CPS on how to use Virtual RigorWalk and action boards
- conduct remote learning instructional rounds with the Licensed Users
- conduct root cause analysis with the Board based on instructional rounds data
- analyze and review with the Board of virtual classroom observation data trends
- provide Board with mid and end of year data analysis reports

At the end of the project, Licensed Users will have received professional learning to build their capacity to recognize rigorous instruction and evidence of student learning, utilize classroom data to conduct root cause analysis and inform what is and is not working and to guide actionable feedback, develop action plans with a vision, purpose and goals, conduct virtual and in-person classroom observations using the Trend Tracker with Virtual RigorWalk.

### 3. PERFORMANCE MILESTONE/DELIVERABLE SCHEDULE/PRICING/RATES:

#### 3.1 – For Virtual Delivery of Services

	Milestone/Task/Deliverable Description	Delivery/Performance Date(s)	Unit Cost	Costs
1	One, six-hour designing implementation session with LSI representatives and the Board to create an implementation plan that includes cycles of learning for data collection and analysis for improving instruction in a remote environment	May-June 2021	\$500 Per Hour	\$3,000
2	Four, three-hour executive action sessions to identify what is working and is not working to guide actionable feedback.	As scheduled by the Board	\$500 Per Hour	\$6,000
3	Up to 40 instructional rounds of virtual classroom observations with LSI and the Board of various grade level and content	As scheduled by the Board	\$3000 Per Day	\$117,000

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	areas followed by debrief sessions to discuss trends observed, quick wins, and areas that need improvement.			
4	Two usage reports from LSI to the Board that identify classroom instructional practice trend data.	As requested by the Board		\$18,000
5	Up to six, six-hour measuring implementation sessions provided by LSI to the Board. Participants will be introduced to the LSI's tools (Trend Tracker, Virtual RigorWalk, and RigorWalk), how to analyze collected trend data to identify root causes, and the Action Boards.	As scheduled by the Board	\$500 Per Hour	\$18,000
6	One, six-hour EOY calibration session with LSI and the Board to review a full compilation of trend data and develop plan implementing new learnings in the following school year	As scheduled by the Board	\$500 Per Hour	\$3,000
7	Up to 36 two-hour Leadership Coaching/Action Board Sessions with LSI and the Board to review Action Boards	As scheduled by the Board	\$500 Per Hour	\$21,600
8	LSI Trend Tracker Annual License	May 2021 - May 2022		\$35,250
9	Up to (120) hours of metric customization in LSI Trend Tracker	May - June 2021	\$125 Per Hour	\$15,000
10	Overall project management of the Services	May 2021-May 2022		\$7,105
<b>TOTAL:</b>				\$243,955

3.2 – Should On-site Delivery of services be requested, the following alternative plan is suggested:

	<b>Milestone/Task/Deliverable Description</b>	<b>Delivery/Performance Date(s)</b>	<b>Unit Cost</b>	<b>Costs</b>
1	One, full day, on-site (six-hour) designing implementation session with LSI representatives and the Board to create an implementation plan that includes cycles of learning for data collection and analysis for improving instruction in a remote environment	August 2021	\$3500 Per Day	\$3,500
2	Four, half-day, on-site (three-hour) executive action sessions to identify what is working and is not working to guide actionable feedback.	As scheduled by the Board	\$1750 Per Half-Day	\$7,000



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3	Up to 34 instructional rounds of full day, on-site (6 hour) classroom observations with LSI and the Board of various grade level and content areas followed by debrief sessions to discuss trends observed, quick wins, and areas that need improvement.	As scheduled by the Board	\$3500 Per Day	\$119,000
4	Two usage reports from LSI to the Board that identify classroom instructional practice trend data.	As requested by the Board		\$18,000
5	Up to four full day, on-site (six-hour) measuring implementation sessions provided by LSI to the Board. Participants will be introduced to the LSI's tools (Trend Tracker, Virtual RigorWalk, and RigorWalk), how to analyze collected trend data to identify root causes, and the Action Boards.	As scheduled by the Board	\$3500 Per Day	\$14,000
6	One, full day, on-site (six-hour) EOY calibration session with LSI and the Board to review a full compilation of trend data and develop plan implementing new learnings in the following school year	As scheduled by the Board	\$3500 Per Day	\$3,500
7	Up to 36 two-hour Leadership Coaching/Action Board Sessions with LSI and the Board to review Action Boards	As scheduled by the Board	\$300 Per Hour	\$21,600
8	LSI Trend Tracker Annual License	May 2021 - May 2022		\$35,250
9	Up to (120) hours of metric customization in LSI Trend Tracker	May - June 2021	\$125 Per Hour	\$15,000
10	Overall project management of the Services	May 2021-May 2022		\$7,105
<b>TOTAL:</b>				\$243,955

**4. OUTCOMES:**

- A. CPS leaders will have the capacity to recognize rigorous instruction and evidence of student learning in a virtual environment.
- B. CPS leaders will be able to utilize classroom data to guide actionable feedback, and prepare root cause analysis.
- C. CPS leaders will understand the process of action boarding as a tool to ensure focus on important activities.
- D. CPS will conduct classroom observations using LSI Virtual RigorWalk and RigorWalk and LSI Trend Tracker.

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## 5. INVOICING/PAYMENT SCHEDULE:

Provider shall invoice the Board on a monthly basis after services have been received. The following pricing reflects the rate structure provided to the Board.

Activity	CPS Partnership Rate	Delivery	Estimated Hours
Professional Development, full day	\$3,000	Virtual	6 hours
Professional Development, full day	\$3,500	Onsite	6 hours
Professional Development, half day	\$1,750	Onsite	3 hours
Professional Development, hourly	\$500	Virtual	1 hour
Coaching/Consultation, full day	\$3,500	Onsite	6 hours
Coaching/Consultation, half day	\$1,750	Onsite	3 hours
Coaching/Consultation, hourly	\$300	Virtual	1 hour
Resource Development	\$125	Varies	Hourly, varies
Project Management	3%	---	ongoing

## 6. TECHNICAL SERVICE DELIVERY

### A. Project Management (PM) Requirements

LSI shall develop, maintain, share, and execute a project plan to ensure the satisfactory delivery of agreed process optimization, or system functionality. The PM shall regularly update the project plan and share with CPS stakeholders and Project Team following CPS Project methods (CPS.EDU/PMO). Key tasks and priorities identified should include, at a minimum, deliverables for both functional and non-functional domains, development and/or development cycles (if applicable), testing, training, and transition to operations details. An outline of the project plan should be incorporated in this scope document, which must include the Project Management Deliverables below. The provider will provide the board with a mechanism to have full visibility into all project resources and documentation.

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B. Project Resources

CPS requires LSI to provide the following project resources, at a minimum:

- Project Manager - Leader
- Business or System Analyst - Process
- Subject Matter Expert - Product / Configurations
- Organizational Change Manager - People Activities

C. Project Management Deliverables

The following represent expected project management deliverables:

- CPS Charter (signed off)
- Project Plan including:
- Executive Summary
- Detailed Scope Statement with Review and CPS Approvals
- Work Breakdown or Backlog
- Schedule, with Milestones
- Organizational Change Management Plan (Training and Communications Plan)
- Quality Plan (testing, and quality control)
- Status Reporting on Deliverables and Risk
- Change Control Process for the Platform or Project Scope
- Escalation/ Support Process

D. Project Delivery Approach

Waterfall and Agile methods are two of the most prominent approaches to delivery. CPS is comfortable and open with both approaches, but a hybrid of the two is more in line with CPS culture. CPS has guidelines for Project Management that should be followed, which includes initiating, planning, executing, and closing out the project. We know that no method is perfect and circumstances and constraints may dictate the approach. The requirement is that CPS must approve the approach.

E. Project Schedule

LSI is responsible to ensure the project remains on track to deliver agreed functionality to a staging environment by agreed upon milestones, perform suitable testing and issue remediation as outlined in the milestone table for the Board to perform validation, and deliver agreed upon system functionality to the production environment by the milestones agreed upon by the parties, and any post production activities. Post production activities may extend through the end of the Term. Ideal schedule milestones include:

- Project Kickoff
- Project Management Plan
- Execution / Build
- Testing
- Training
- Transitions to Operations

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F. Quality Planning

Providers quality assurance plan is the foundation on which the project deliverables must be built to meet expectations and needs in accordance with requirements captured. LSI should present and integrate quality management techniques, such as controls, tests, etc.

G. Status Reporting

LSI shall deliver, at a minimum, the following on a weekly basis to the CPS stakeholders, both the educational and ITS teams:

- Plan Status - Milestones, and Deliverables
- Risk(s) and Issue(s) Status
- Change Control

H. Plan Status

Provider shall work with the Board to review the backlog or plan of outstanding tasks, deliverables, and milestones on a weekly basis, which should be a focus on pending Milestones and Deliverables, and schedule tracking.

I. Risk and Issue Status

LSI is responsible for logging risks within a register. The risk register must include the risk, mitigation, impact, or whether positive or negative. The Provider shall be available to conduct a weekly risk and issue review meeting with CPS stakeholders either in person or via telephone, during the development/ rollout cycles.

J. Change Control

LSI is responsible for working with the Board to minimize or eliminate scope changes and documenting such changes through change orders in accordance with the change management process terms set forth in the contract. Change order requests must be submitted, but can only be approved for scope inclusion after signing the Project Sponsor or their respective delegate(s). Any Services provided pursuant to a change order are subject to and shall be provided in accordance with the terms of the contract.

K. Organizational Change Management (OCM)

LSI will deliver OCM using a framework for managing the effect of new business processes, changes in organizational structure or cultural changes within CPS, which should include the following:

- Stakeholder analysis
- Admin Training
- Communications Strategies
- Staff training

LSI is responsible for training CPS Administrative specialists from CPS business departments as well as two (2) technology specialists from the ITS department in use and support of the Solution.

Deliverables include:

- Training and Business User Guide
- Administrator Training

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- CPS onsite training
- ITS Training and Technology Specialist User Guide
- FAQs End Users
- FAQs for Administrative Staff
- Knowledge Articles and FAQ's for CPS Support staff
- Support and Project Delivery Orientations Training

## 7. INFORMATION AND DATA MANAGEMENT

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.

### A. Provider 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 CPS demands, and have the capabilities needed to recover from data loss or corruption
- Able to enable reporting and analytics (Business Intelligence)
- 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.

### B. Audit History

The solution must 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.

### C. Data Integrations

The Solution must 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



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learning then the solution must support IMS global / One-Roster protocols. Employee assessment results will only be exportable at an anonymized, aggregate level.

#### D. 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 Provider. 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 condition exists then Provider 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.

#### E. Data Validation

Integration of multiple datasets together can be fraught with difficulty, including inconsistent fields, missing datasets, and conflicting sets of information. The Provider 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. Provider 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 as when jobs are not synchronized

#### F. Data Management

- The Provider 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.
- Provider shall return or destroy all confidential information received from CPS, or created or received by Provider on behalf of CPS.
- In the event that Provider determines that returning or destroying the confidential information is infeasible, Provider 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; Provider 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.

THIS AGREEMENT WILL BE POSTED ON THE CPS WEBSITE.

- Data exchanges with CPS shall be done in an automated fashion.

G. Data Conversion and Validation

Provider must provide human resources to partner with the CPS Enterprise Data Team, a CPS ITS team, who will be needed for any data movement, or integrations to document the proper conversion mapping and perform test validation for any/all bi-directional data exchanges, or any automation.

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

I. Identity and Access Management

- Must be in compliance with the CPS Security and Access Control policies (<https://cps.edu/AcceptableUsePolicy/Pages/platformGuidelines.aspx> <https://policy.cps.edu/download.aspx?ID=77>)
- 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, and per CPS approval
- Documented security controls in place to protect sensitive and/or confidential information.



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Board's ITS Program Manager	
Name:	