

UPDATED: 5-13-2020

THE ATTACHED *CONTRACTUAL SERVICES AGREEMENT* IS A TEMPLATE. **DO NOT FILL IN YOUR INFORMATION ON THIS TEMPLATE. PLEASE DOWNLOAD & SAVE IT FOR YOUR USE** THEN FILL IN **ALL HIGHLIGHTED SPACES**. EMPLOYER ID NUMBER/TAXPAYER ID NUMBER IS REQUIRED. THIS TEMPLATE IS USED FOR ALL PROVIDERS WHETHER A COMPANY OR INDIVIDUAL. SEE ASSISTANT SUPERINTENDENT FOR BUSINESS IF YOU HAVE INSURANCE ISSUES WITH SELECTED PROVIDER. NO EXCEPTIONS TO THE INSURANCE REQUIREMENTS WILL BE VALID UNLESS APPROVED BY ASSISTANT SUPERINTENDENT FOR BUSINESS.

PLEASE DOWNLOAD THE **W-9 AND THE VENDOR FORM** FOR THE PROVIDER TO FILL OUT AND ATTACH IT TO THE AGREEMENT.

PLEASE NOTE:

IF AN RFP/RFQ IS NOT USED WITH THIS CONTRACT, PLEASE UPDATE SECTION #2 SCOPE OF SERVICES PARAGRAPH 3 TO READ:

All services shall be provided in strict compliance with law and in compliance with the description provided in SERVICE PROVIDER's proposal dated _____, which is attached hereto as Exhibit "B". In the event of a conflict or inconsistency between this Agreement and SERVICE PROVIDER's proposal, the terms and conditions of this Agreement shall supersede and control over the proposal.

IF THE DISTRICT WILL BE REIMBURSING THE SERVICE PROVIDER FOR TRAVEL RELATED EXPENSES, ADD THE FOLLOWING AFTER THE DESCRIPTION OF THE SCOPE OF SERVICES, SECTION #2 SCOPE OF SERVICES:

SCHOOL DISTRICT agrees to reimburse SERVICE PROVIDER for travel not to exceed \$_____. Expense reimbursements will be limited to GSA rates for Hotel, Meals and federal mileage allowances. Air travel shall be reimbursed at the lowest feasible fare available and shall not exceed regular coach class fare. Travel arrangements should be made as soon as reasonably practicable so as to avoid payment of a higher fare due to a late booking. Reimbursements shall be supported by receipts submitted with invoices.

AND

IF THE DISTRICT WILL BE REIMBURSING FOR TRAVEL EXPENSES, UPDATE SECTION #6 EXPENSES OF SERVICE PROVIDER TO READ:

EXPENSES OF SERVICE PROVIDER: Except as otherwise provided in paragraph 2 above, SERVICE PROVIDER shall be responsible for all costs and expenses incurred by SERVICE PROVIDER that are incident to the performance of services for SCHOOL DISTRICT, including, but not limited to, all tools, vehicles, or other equipment to be provided by SERVICE PROVIDER, all fees, fines, licenses, bonds or taxes required of or imposed against SERVICE PROVIDER and all other of SERVICE PROVIDER's costs of doing business. Except as otherwise provided in paragraph 2 above, SCHOOL DISTRICT shall not be responsible for any expenses incurred by SERVICE PROVIDER in performing services for SCHOOL DISTRICT.

IF SERVICE PROVIDER WILL NOT HAVE ACCESS TO ANY PERSONAL IDENTIFIABLE STUDENT DATA/INFO, TAKE OUT EXHIBIT C, DELETE LAST SENTENCE OF SECTION #7 AND UPDATE SECTION #14 DATA SECURITY AND PRIVACY PLAN TO READ:

CONFIDENTIAL INFORMATION : SERVICE PROVIDER agrees that all documentary, electronic and oral information and data made known to SERVICE PROVIDER and/or, its owners, operators, officers, directors, employees, subcontractors and/or agents through any activity related to this Agreement is deemed Confidential Information and such Confidential Information shall not be disclosed to any third-party without the express prior written permission of SCHOOL DISTRICT. SERVICE PROVIDER understands that any unauthorized disclosure, publication and/or communication of such Confidential Information shall be considered a breach of this Agreement. The selected proposer(s) agrees that if he/she/it receives a subpoena to divulge Confidential Information, he/she/it shall notify the SCHOOL DISTRICT prior to divulging the same. Upon termination or expiration of this Agreement, unless otherwise directed by the SCHOOL DISTRICT, SERVICE PROVIDER shall deliver all records, data, information, and other computer media or documents produced for or acquired from the SCHOOL DISTRICT during the performance of this Agreement and all copies thereof to the SCHOOL DISTRICT and shall assist the SCHOOL DISTRICT in exporting any digital information produced for or acquired from the SCHOOL DISTRICT that SERVICE PROVIDER possesses or maintains in digital format. Such material shall remain the property of the SCHOOL DISTRICT and no copies of the SCHOOL DISTRICT's confidential information shall remain in the possession of SERVICE PROVIDER. The parties further agree that the terms and conditions set forth in this paragraph shall survive the expiration and/or termination of this Agreement.

For all contracts over \$ 25,000.00

Exhibit F: DEBARMENT AND SUSPENSION must be filled out and notarized by the service provider and then the WPCSD Administrator/Grant Administrator must verify that the proposer/bidder is not on the exclusion list maintained by the Federal Government's System for Award Management (SAM) and complete the certification form.

The White Plains City School district is prohibited from contracting with or making subawards under “covered transactions” to parties that are suspended or debarred, or whose principals are suspended or debarred. “Covered transactions” include procurement contracts for goods and services awarded under a grant or cooperative agreement that are expected to equal or exceed \$25,000. All non-procurement transactions entered into by a recipient (i.e., subawards to subrecipients), irrespective of award amount, are considered covered transactions, unless they are exempt as provided in 2 CFR section 180.215. The subrecipient cannot make a contract to parties listed on the EPLS through the System for Award Management (SAM).

SAM contains the list of names of parties debarred, suspended, or otherwise excluded by federal agencies.

To verify contracts over \$25,000.00 on the System for Award management (SAM) site:

- Responsible Contractors/vendors will sign and notarize the District’s certification form that is an addendum to this contract (Exhibit F).
- The Administrator or Grant Administrator will be responsible for checking the site for verification and completing the certification form. Create a user account on the SAM site see link attached: <https://sam.gov/SAM/> or use search records tab.
- The certification form must be signed and notarized prior to any purchase and attached as supporting documentation to the purchase order.
- A copy of the documentation from SAM must be retained with the contract and attached to the purchase order.

2020-2021 CONTRACTUAL SERVICES AGREEMENT

THIS AGREEMENT made this [REDACTED] day of [REDACTED], 2020 by and between White Plains City School District (hereinafter referred to as "SCHOOL DISTRICT"), as the party of the first part, having its principal place of business located at 5 Homeside Lane, White Plains, NY 10605, and [REDACTED] (hereinafter referred to as "SERVICE PROVIDER"), as the party of the second part, having its principal place of business for purposes of this Agreement at [REDACTED]

WITNESSETH:

WHEREAS, SCHOOL DISTRICT is in need of [REDACTED] services;

WHEREAS, SERVICE PROVIDER is in the business of providing services in the area of [REDACTED];

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the parties hereto mutually agree as follows:

1. **TERM OF AGREEMENT:** This Agreement shall be in effect for the period of July 1, 2019 to June 30, 2020 unless terminated earlier, as set forth herein.
2. **SCOPE OF SERVICES:** SERVICE PROVIDER shall provide [REDACTED] services. SERVICE PROVIDER shall provide the following services at no additional charge unless otherwise indicated, consisting of, but not limited to, the following:

[REDACTED]

SERVICE PROVIDER represents that it has the requisite knowledge and skills to provide all such services. SERVICE PROVIDER recognizes that this Agreement does not grant SERVICE PROVIDER the exclusive right to perform the above-described services for SCHOOL DISTRICT and that SCHOOL DISTRICT may enter into agreements with other providers for the same or similar services.

All services shall be provided in strict compliance with law, in compliance with the terms and conditions of the Request for Quotes ("RFQ") or Request for Proposals ("RFP") issued by SCHOOL DISTRICT, which is attached hereto as Exhibit "A", and in compliance with the description provided in SERVICE PROVIDER's proposal dated [REDACTED], which is attached hereto as Exhibit "B". In the event of a conflict or inconsistency between this Agreement, the RFQ/RFP and/or SERVICE PROVIDER's proposal, the terms and conditions of this Agreement shall supersede and control over the RFQ/RFP and proposal and the terms and conditions of the RFQ/RFP shall supersede and control over the proposal.

3. **PAYMENT SCHEDULE:** In full consideration for the services to be rendered by SERVICE PROVIDER to SCHOOL DISTRICT for the term of this Agreement, SCHOOL DISTRICT agrees to pay SERVICE PROVIDER: [redacted] [fill in applicable hourly rate(s), if there are any] up to a sum not to exceed [redacted]. The parties understand and agree that the SCHOOL DISTRICT will not pay for services unless and until such services are provided.

SCHOOL DISTRICT has not guaranteed, promised or represented that it will utilize any minimum amount of the services to be performed by SERVICE PROVIDER under this Agreement. SERVICE PROVIDER waives any claims to lost or anticipated profits based on SCHOOL DISTRICT's failure to utilize SERVICE PROVIDER's services to the full amount authorized to be expended under this Agreement. [NOTE THIS PARAGRAPH MAY NOT ALWAYS BE APPLICABLE - should generally be used when the compensation is based on an hourly rate - may be applicable in other circumstances as well - consult the School District's attorney if unsure whether to include or not].

4. **INVOICE DUE ON MONTHLY BASIS:** SERVICE PROVIDER will submit an invoice for services rendered on a monthly basis, and payment to SERVICE PROVIDER shall be made within thirty (30) days from receipt of invoice from SERVICE PROVIDER. The invoice shall include types of services rendered and fees payable. SCHOOL DISTRICT shall give SERVICE PROVIDER notice of any invoice dispute within twenty (20) days of its receipt and reserves the right to withhold payment pending the resolution of this dispute. Failure to dispute any invoice shall not be deemed as an acceptance and does not act as a waiver of SCHOOL DISTRICT's rights or prevent SCHOOL DISTRICT from availing itself of any remedy or course of action it has at law or in equity at a later date.

5. **INDEPENDENT CONTRACTOR:** SERVICE PROVIDER acknowledges that it will not hold itself, its officers, employees and/or agents out as employees of SCHOOL DISTRICT. SERVICE PROVIDER is retained by SCHOOL DISTRICT only for the purposes and to the extent set forth in this Agreement, and its relationship to SCHOOL DISTRICT shall, during the periods of its services hereunder, be that of an independent contractor. SERVICE PROVIDER shall not be considered as having employee status and shall not be entitled to participate in any of SCHOOL DISTRICT's workers' compensation, retirement, fringe benefits, unemployment insurance, liability insurance, disability insurance, or other similar employee benefit programs. Similarly, SERVICE PROVIDER, its officers, its employees and/or agents shall not be considered as having employee status for the purposes of any other rights, privileges or benefits derived from employment by SCHOOL DISTRICT. SERVICE PROVIDER agrees that this Agreement does not confer benefits of any nature whatsoever upon it other than payment for services provided herein. SERVICE PROVIDER shall not assert any claim for additional benefits of any nature, including, but not limited to, unemployment compensation benefits, by reason of the services to be performed pursuant to this Agreement. SERVICE PROVIDER shall not be entitled to assert any claim to entitlements pursuant to any collective bargaining agreement now or hereafter in effect between SCHOOL DISTRICT and its employees.

6. **EXPENSES OF SERVICE PROVIDER:** SERVICE PROVIDER shall be responsible for all costs and expenses incurred by SERVICE PROVIDER that are incident to the performance of services for SCHOOL DISTRICT, including, but not limited to, all tools, vehicles, or other equipment to be provided by SERVICE PROVIDER, all fees, fines, licenses, bonds or taxes

required of or imposed against SERVICE PROVIDER and all other of SERVICE PROVIDER's costs of doing business. SCHOOL DISTRICT shall not be responsible for any expenses incurred by SERVICE PROVIDER in performing services for SCHOOL DISTRICT.

7. **PRINCIPAL CONTACT PERSON:** The principal contact person of SCHOOL DISTRICT shall be _____ [insert title of person who will be directing service provider - should be a central office administrator] and all correspondence, reports and inquiries regarding this Agreement shall be directed to that person. SCHOOL DISTRICT will provide SERVICE PROVIDER with an email address to facilitate electronic communication between it and SERVICE PROVIDER. Any information transmitted in this fashion is subject to the Data Security and Privacy Plan provisions set forth in paragraph 14 of this Agreement.

8. **INCOME TAX DESIGNATION AND INDEMNIFICATION:** SCHOOL DISTRICT shall not withhold from sums payable to SERVICE PROVIDER under this Agreement any amounts for Federal, State, or local taxes including Federal or State income taxes, employment taxes (including Social Security and Medicare taxes), and unemployment taxes. SERVICE PROVIDER agrees that any tax obligation of SERVICE PROVIDER arising from the payments made under this Agreement will be SERVICE PROVIDER'S sole responsibility. SERVICE PROVIDER will indemnify SCHOOL DISTRICT for any tax liability, interest, and/or penalties imposed upon SCHOOL DISTRICT by any taxing authority based upon SCHOOL DISTRICT's failure to withhold any amount from the payments for tax purposes.

9. **SCHOOL DISTRICT'S RIGHT TO EXAMINE ACCOUNTING RECORDS:** SCHOOL DISTRICT shall have the right to examine any and all accounting records of SERVICE PROVIDER as they pertain to the services to be provided pursuant to this Agreement.

10. **COMPLIANCE WITH LAW:** SERVICE PROVIDER understands and agrees that it is responsible for complying with all applicable Federal, State, local statutes, rules, and ordinances including but not limited to the New York State Safe Schools Against Violence in Education (SAVE) legislation, the Federal Family Educational Rights and Privacy Act ("FERPA") and Section 2-d of the New York State Education Law (which concerns privacy and security of students, teacher and principal data). SERVICE PROVIDER shall adhere to all requirements and protocols as established by SCHOOL DISTRICT and the State Education Department of New York applicable to the services to be provided hereunder.

- a. SERVICE PROVIDER shall comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, by filing the required certification that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress or an employee of a member of Congress in connection with obtaining a federal contract, grant or any other award covered by 31 U.S.C. § 1352. In addition, in compliance with the Byrd Anti-Lobbying Amendment, SERVICE PROVIDER must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award.

- b. To the extent applicable to the services to be provided and/or the materials to be supplied, SERVICE PROVIDER will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. § 7401, *et seq.*, and the Federal Water Pollution Control Act as amended, 33 U.S.C. § 1251 *et seq.*
- c. SERVICE PROVIDER shall comply with all of the provisions of the Immigration Reform and Control Act of 1986 and regulations promulgated pursuant thereto and shall require its subcontractors to comply with same. SERVICE PROVIDER shall and does hereby agree to fully indemnify, protect, defend, and hold harmless the SCHOOL DISTRICT, its Board of Education, officers, agents and employees from and against any penalties, fees, costs, liabilities, suits, claims, or expenses of any kind or nature, including reasonable attorney's fees, arising out of or resulting from any violation or alleged violation of the provisions of said laws in connection with the work performed hereunder.
- d. To the extent applicable to the services to be provided and/or the materials to be supplied, SERVICE PROVIDER must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, which requirements include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.
- e. To the extent applicable to the services to be provided and/or the materials to be supplied, SERVICE PROVIDER must comply with the requirements of 37 CFR Part 401, entitled "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements" and the Standard Patent Right Clauses contained in 37 CFR Section 401.14 are incorporated herein by reference and shall be deemed as part of this Agreement as if set forth verbatim herein.

11. **FINGERPRINTING AND BACKGROUND CHECKS:** If the below box requiring fingerprinting and background checks is checked, SERVICE PROVIDER agrees and understands that all individuals providing services under this Agreement must be cleared by the New York State Education Department based upon fingerprint criminal background checks in accordance with the provisions contained in the SAVE Legislation prior to providing services to SCHOOL DISTRICT. Appropriate written proof of such clearance shall be provided to SCHOOL DISTRICT prior to such individuals providing services to SCHOOL DISTRICT and attached to this Agreement as Exhibit D. In the event that SERVICE PROVIDER utilizes an individual who is required to and who has not obtained fingerprinting clearance with the State Education Department, SCHOOL DISTRICT shall have the right to immediately terminate this Agreement and SERVICE PROVIDER shall be responsible for and pay to SCHOOL DISTRICT any costs and damages incurred by SCHOOL DISTRICT as a result of this material breach of the Agreement by SERVICE PROVIDER, including but not limited to the increased costs incurred by SCHOOL DISTRICT to secure replacement services.

Fingerprinting/Background Check Required

- Service Provider will have direct contact with students
- Service Provider will be providing services on more than 5 days
- Fingerprinting/Background Check NOT Required
 - Service Provider will not have direct contact with students
 - Service Provider will be providing services 5 days or less
 - Service Provider is exempt
 - Basis of Exemption: _____

12. **SCHOOL GROUNDS & RULES:** It is understood and agreed that while on school grounds, SERVICE PROVIDER, its employees and/or agents shall obey all SCHOOL DISTRICT rules and regulations and must follow all reasonable directives of SCHOOL DISTRICT's administrators and employees.

13. **TERMINATION NOTICE:**

- a. This Agreement may be terminated for convenience by either party upon thirty (30) days written notice to the other party. In the event of such termination, the parties will adjust the accounts due and payable to SERVICE PROVIDER for services rendered. SERVICE PROVIDER will not incur any additional expenses upon receipt of SCHOOL DISTRICT's notification that SERVICE PROVIDER's services have been terminated. Upon any such termination, the parties shall endeavor in an orderly manner to wind down activities hereunder. In the event of termination, all reports and services due to SCHOOL DISTRICT must be completed by SERVICE PROVIDER within thirty (30) days of the termination date.
- b. This Agreement may be terminated by SCHOOL DISTRICT in the event of a material breach by SERVICE PROVIDER, upon three (3) days' written notice from SCHOOL DISTRICT to SERVICE PROVIDER. In the event of such termination, SCHOOL DISTRICT shall only pay SERVICE PROVIDER for services provided prior to the termination in full compliance with this Agreement and shall deduct from such sums (and if such sums are insufficient, SERVICE PROVIDER shall pay to SCHOOL DISTRICT the additional sums required to compensate SCHOOL DISTRICT for) any costs and damages incurred by the SCHOOL DISTRICT as a result of the material breach(es) of this Agreement by SERVICE PROVIDER, including but not limited to the increased costs incurred by SCHOOL DISTRICT to secure replacement services.

14. **DATA SECURITY AND PRIVACY:** SERVICE PROVIDER agrees that the terms used in this provision of the Agreement shall have the same meanings as those found in New York Education Law Section 2-d(1) and the Regulations of the New York Commissioner of Education at Section 121.1 of Title 8 of the New York Codes, Rules and Regulations (8 NYCRR § 121.1), unless more broadly defined herein. For purposes of this Agreement, SERVICE PROVIDER agrees that all documentary, electronic and oral information and data made known to SERVICE PROVIDER and/or, its owners, operators, officers, directors, employees, subcontractors and/or agents through any activity related to this Agreement is deemed Confidential Information and such Confidential Information shall not be disclosed to any third-party without the express prior written permission of SCHOOL DISTRICT. SERVICE PROVIDER understands that any

unauthorized disclosure, publication and/or communication of such Confidential Information shall be considered a breach of this Agreement and the Data Security and Privacy Plan attached hereto as Exhibit C. The SERVICE PROVIDER agrees that if SERVICE PROVIDER receives a subpoena to divulge Confidential Information, SERVICE PROVIDER shall notify the SCHOOL DISTRICT prior to divulging the same. The parties further agree that the terms and conditions set forth in this paragraph shall survive the expiration and/or termination of this Agreement. Without limiting any of the foregoing statements in this paragraph, in accordance with Section 2-d of New York State Education Law the parties have agreed upon and incorporate herein by reference the "White Plains Public Schools NYS Education Law 2-d Data Security and Privacy Plan Addendum with Parents' Bill of Rights," which comprises Exhibit C to this Agreement. **IF SERVICE PROVIDER WILL NOT HAVE ACCESS TO personally identifiable information or data concerning the School District's students or confidential APPR data/information of a teacher(s) or principal(s), THEN SEE the instructions for a different version of this paragraph to be used.**

15. **NON-EXCLUSION FROM PROGRAM PARTICIPATION:**

- a. SERVICE PROVIDER represents and warrants that it, its employees, subcontracts and/or its agents are not excluded from participation, and are not otherwise ineligible to participate, in a "federal health care program" as defined in 42 U.S.C. § 1320 a-7b(f) or in any other government payment program.
- b. In the event SERVICE PROVIDER or any of its employees, subcontractors or agents providing services to SCHOOL DISTRICT under this Agreement is excluded from participation or becomes otherwise ineligible to participate in any such program during the term of this Agreement, SERVICE PROVIDER will notify the SCHOOL DISTRICT in writing within three (3) business days after such event. Upon the occurrence of such event, whether or not such notice is given, the SCHOOL DISTRICT reserves the right to immediately terminate this Agreement.
- c. Any employee, subcontractors or agent of SERVICE PROVIDER found to be ineligible to participate in any such program during the term of this Agreement will immediately cease services and be replaced with an eligible individual.

16. **INDEMNIFICATION and HOLD HARMLESS PROVISION:** SERVICE PROVIDER further agrees that it shall defend, indemnify and hold harmless SCHOOL DISTRICT, its Board of Education, officers, directors, agents and employees from all loss, costs, damages and expenses, including attorneys' fees, judgments, fines and amounts paid in settlement in connection with a terminated, pending or completed action, suit or proceeding arising from any act, error or omission, misstatement, misleading statement, neglect or breach of duties by SERVICE PROVIDER or any of its officers, directors, agents or employees taken or made with respect to this Agreement. In the event of a breach or unauthorized release of any personally identifiable information of SCHOOL DISTRICT, its employees, students or administrators by SERVICE PROVIDER, SERVICE PROVIDER must promptly reimburse SCHOOL DISTRICT for the full cost of any notifications SCHOOL DISTRICT is required to make as a result of the breach or unauthorized release.

17. **INSURANCE PROVISION:** SERVICE PROVIDER shall purchase from and maintain in a company or companies lawfully licensed to do business in the State of New York such insurance

as will protect SERVICE PROVIDER and SCHOOL DISTRICT from claims for which SERVICE PROVIDER may be legally liable, whether such operations be by SERVICE PROVIDER or by anyone directly or indirectly employed by SERVICE PROVIDER, or by anyone for whose acts SERVICE PROVIDER may be liable. Notwithstanding any terms, conditions or provisions in any other writing between the parties, SERVICE PROVIDER hereby agrees to effectuate the naming of SCHOOL DISTRICT as an unrestricted additional insured on SERVICE PROVIDER's insurance policies, with the exception of workers' compensation and professional liability. If the policy is written on a claims-made basis, the retroactive date must precede the date of this Agreement. The policies naming SCHOOL DISTRICT as an additional insured shall:

- a. Be purchased from an A.M. Best A- rated or better insurer, licensed to conduct business in New York State and licensed and admitted to issue insurance in New York State.
- b. Contain a provision that provides SCHOOL DISTRICT with 30-day prior written notice of the cancellation of any of SERVICE PROVIDER's policies.
- c. State that the SERVICE PROVIDER's coverage shall be primary and non-contributory coverage for SCHOOL DISTRICT, its Board of Education, officers, employees and volunteers.
- d. SCHOOL DISTRICT shall be listed as an additional insured by using endorsement CG 20 26 or equivalent. The decision to accept an endorsement rests solely with SCHOOL DISTRICT. A completed copy of the endorsement must be attached to the certificate of insurance.

The certificate of insurance must describe the services provided by SERVICE PROVIDER that are covered by the liability policies.

Required Insurance to be provided (all below insurance is mandatory for all service providers unless for good cause shown the Board of Education or Assistant Superintendent for Business has authorized in writing a modification that is attached hereto as Exhibit E):

Commercial General Liability

\$1,000,000 per occurrence/\$2,000,000 aggregate with no exclusions for athletic participants and with proof of coverage for sexual misconduct no less than \$1,000,000.

Worker's Compensation and N.Y.S. Disability

Statutory Workers' Compensation (C105.2 or U-26.3), Employers' Liability and N.Y.S. Disability Benefits (DB-120.1) Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable proof of Workers' Compensation Insurance of Disability Benefits Insurance.

A person claiming an exemption from Worker' Compensation Insurance must file a CE-200 form with the state and provide a copy of such form to the School District.

Professional Errors and Omissions Insurance

\$2,000,000 per occurrence/\$2,000,000 per aggregate for the professional acts of the SERVICE PROVIDER performed under this Agreement for the SCHOOL DISTRICT. If written on a "claims-made" basis, the retroactive date must pre-date the inception of this Agreement.

Coverage shall remain in effect for two years following the completion of the professional acts of the SERVICE PROVIDER performed under this Agreement.

Umbrella/Excess Insurance

\$3,000,000 each occurrence and aggregate. Umbrella/Excess coverage shall be on a follow-form basis over the required Commercial General Liability and Professional Liability coverage.

Automobile Liability

\$1,000,000 combined single limit for owned, hired, borrowed and non-owned motor vehicles.

In the event that any of the insurance coverage to be provided by SERVICE PROVIDER contains a deductible or self-insured retention, SERVICE PROVIDER shall indemnify and hold SCHOOL DISTRICT harmless from the payment of such deductible or self-insured retention, which deductible or self-insured retention shall in all circumstances remain the sole obligation and expense of SERVICE PROVIDER.

SERVICE PROVIDER shall provide SCHOOL DISTRICT with evidence of the above insurance requirements upon execution of the within Agreement. SERVICE PROVIDER further acknowledges that its failure to obtain or keep current the insurance coverage required by this Agreement shall constitute a material breach of this Agreement and subjects SERVICE PROVIDER to liability for damages including, but not limited to, direct, indirect, consequential, special and any other damages SCHOOL DISTRICT sustains as a result of this breach. In addition, SERVICE PROVIDER shall be responsible for the indemnification to SCHOOL DISTRICT of any and all costs associated with such lapse in coverage including, but not limited to, reasonable attorneys' fees. At the SCHOOL DISTRICT's request, the SERVICE PROVIDER shall provide a copy of the declaration page of the liability and umbrella policies with a list of endorsements and forms. At the SCHOOL DISTRICT's request, the SERVICE PROVIDER also will provide a copy of the policy endorsements and forms. The failure of the SCHOOL DISTRICT to object to the contents of the evidence of insurance(s) or the absence of same shall not be deemed a waiver of any and all rights held by the SCHOOL DISTRICT. Prior to commencement of its services, SERVICE PROVIDER shall obtain and pay for insurance as may be required to comply with the indemnification and hold harmless provisions outlined under this Agreement.

The SCHOOL DISTRICT is a member/owner of the NY Schools Insurance Reciprocal (NYSIR). The SERVICE PROVIDER understands and acknowledges that the procurement of the insurance as required herein is intended to benefit not only the SCHOOL DISTRICT but also the NYSIR, as the SCHOOL DISTRICT's insurer.

18. **NOTICES:** Any notices to be given under this Agreement by either party to the other may be effected by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Each party may change the address for written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of three (3) business days after mailing. Notice shall be delivered or mailed to:

NAME OF PROVIDER

ADDRESS
CITY/STATE/ZIP CODE

White Plains City School District
5 Homeside Lane
White Plains, New York 10605
Attention: Superintendent of Schools

19. **ASSIGNMENT OF AGREEMENT:** SERVICE PROVIDER shall not assign, transfer or convey any of its respective rights or obligations under this Agreement without the prior written consent of SCHOOL DISTRICT.

20. **DISCRIMINATION:**

- a. Services provided pursuant to this Agreement shall be provided without regard to a student's actual or perceived race, creed, color, weight, gender, sex, sexual orientation, national origin, ethnic group, religion, religious practice, age or disability.
- b. In hiring of employees for the performance of the services required by this Agreement, SERVICE PROVIDER shall not discriminate against any person who is qualified and available to perform such services by reason of such person's race, creed, color, sex, sexual orientation, gender identity, age, disability, religion, marital status, military status domestic violence victim status, predisposing genetic characteristics or national origin. All solicitations or advancements for employees placed by or on behalf of SERVICE PROVIDER will state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, gender identity, age, disability, religion, marital status, military status domestic violence victim status, predisposing genetic characteristics or national origin.
- c. SERVICE PROVIDER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to such employee's race, creed, color, sex, sexual orientation, gender identity, age, disability, religion, marital status, military status domestic violence victim status, predisposing genetic characteristics or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. SERVICE PROVIDER agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- d. SERVICE PROVIDER will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the

employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with SERVICE PROVIDER's legal duty to furnish information.

- e. SERVICE PROVIDER will send to each labor union or representative of workers with which SERVICE PROVIDER has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the SERVICE PROVIDER's commitments under Section 202 of Executive Order No. 11246 of the President of the United States of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- f. SERVICE PROVIDER will comply with all provisions of Executive Order No. 11246 of the President of the United States of September 24, 1965, and of the rules, regulations, and relevant orders of the United States Secretary of Labor.
- g. SERVICE PROVIDER will furnish all information and reports required by Executive Order No. 11246 of the President of the United States of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, and will permit access to SERVICE PROVIDER's books, records, and accounts by the SCHOOL DISTRICT and the United States Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- h. SERVICE PROVIDER's noncompliance with the nondiscrimination clauses of this Agreement may cause this Agreement to be cancelled, terminated, or suspended in whole or in part and SERVICE PROVIDER may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of President of the United States of September. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of President of the United States of September 24, 1965, or by rule, regulation, or order of the United States Secretary of Labor, or as otherwise provided by law.
- i. SERVICE PROVIDER will include the provisions of sub-paragraphs (a) through (h) of this Paragraph "20" in every subcontract or purchase order issued with respect to this Agreement unless exempted by rules, regulations, or orders of the United States Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of President of the United States of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. SERVICE PROVIDER will take such action with respect to any subcontract or purchase order as may be directed by the United States Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that

in the event SERVICE PROVIDER becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, SERVICE PROVIDER may request the United States to enter into such litigation to protect the interests of the United States.

21. **MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES:** To the extent SERVICE PROVIDER needs to purchase supplies or contract with suppliers to fulfil its obligations under this Agreement, it will make commercially reasonable good faith efforts to utilize suppliers that are certified minority and women-owned business enterprises (“MWBEs”). To the extent subcontracting is needed and permitted by the SCHOOL DISTRICT, SERVICE PROVIDER will make commercially reasonable good faith efforts to utilize subcontractors, who are certified MWBEs. SERVICE PROVIDER shall retain documentation of these good faith efforts to be provided upon request to the SCHOOL DISTRICT, New York State, and/or an agency or department of the United States government. Such commercially reasonable good faith efforts shall include but not be limited to (1) placing qualified small businesses and MWBEs on solicitations lists and assuring they are solicited whenever they are potential suppliers or subcontractors (if subcontracting is permitted by the SCHOOL DISTRICT); (2) divide total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by small businesses and MWBEs; and (3) using the services and assistance of such organizations as the Small Business Administration and the Minority Business Development agency of the U.S. Department of Commerce when seeking suppliers or subcontractors. Documentation of good faith efforts shall include, but not be limited to, the following: (a) copies of solicitations to MWBEs and any responses thereto; (b) written explanation of the specific reasons each MWBE that responded to such solicitations was not selected; and (c) written explanation of the specific steps undertaken for the purpose of subcontracting with or obtaining supplies from certified MWBEs.

22. **GOVERNING LAW:** This Agreement shall be governed by the laws of the State of New York. Any litigation between the parties shall be venued in a court of competent jurisdiction in the County of Westchester in the State of New York.

23. **SEXUAL HARASSMENT:** Federal and state laws and the policies of the SCHOOL DISTRICT prohibit sexual harassment of employees and students. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature that create a hostile or offensive working environment for SCHOOL DISTRICT employees or students. SERVICE PROVIDER shall exercise control over its employees, agents, and consultants so as to prohibit acts of sexual harassment of SCHOOL DISTRICT employees or students. In the event the SCHOOL DISTRICT, in its reasonable judgment, determines that SERVICE PROVIDER, its employees, agents and/or consultants have committed an act of sexual harassment, upon notice from the SCHOOL DISTRICT, SERVICE PROVIDER shall cause such person to be removed and shall take such other action as may be reasonably necessary to cause such sexual harassment to cease.

24. **SEVERABILITY:** If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such term,

provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.

25. **NO PRIOR AGREEMENTS:** This Agreement constitutes the full and complete agreement between SCHOOL DISTRICT and SERVICE PROVIDER, and supersedes all prior written and oral agreements, commitments or understandings with respect thereto.

26. **AGREEMENT CONSTRUCTION:** This Agreement has been arrived at mutually and is not to be construed against any party hereto as being the drafter hereof or causing the same to be drafted.

27. **REPRESENTATIONS AND WARRANTIES:** SERVICE PROVIDER represents and warrants: 1) that SERVICE PROVIDER has no obligations, legal or otherwise, inconsistent with the terms of this Agreement; 2) that the performance of the services to be provided in this Agreement does not and will not violate any applicable law, rule or regulation or any proprietary or other right of any third party; and 3) that SERVICE PROVIDER has not entered into or will not enter into any agreement (whether oral or written) in conflict with this Agreement.

28. **AMENDMENT:** This Agreement may be amended only in a writing that is signed by both parties. This Agreement may not be altered, changed, added to, deleted from or modified except through the mutual written consent of the parties.

29. **NONWAIVER:** No action or failure to act by SERVICE PROVIDER or SCHOOL DISTRICT shall constitute a waiver of a right or duty afforded them under the Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

30. **COOPERATION IN THE EVENT OF LITIGATION:** In the event that any claim, demand, suit or other legal proceeding arising out of any matter relating to this Agreement is made or instituted by any person against the SCHOOL DISTRICT, at its own cost and expense, SERVICE PROVIDER shall provide the SCHOOL DISTRICT with all reasonable information and assistance in the defense or other disposition thereof.

31. **FORCE MAJEURE:** If either party to this Agreement is compelled to cease performance of its obligations because of: (i) the passage after the term of this agreement commences any laws or regulations; (ii) any legal or administrative proceedings or order or directive of any government or governmental agency, court, or administrative agency having competent jurisdiction, including but not limited to the President of the United States, the Governor of New York State, the New York State Department of Health, the New York State Education Department, the County Executive of Westchester County, the Westchester County Department of Health or any Federal or State agency, department or official of competent jurisdiction; (iii) epidemic or pandemic; (iv) fire; (v) explosion; (vi) war or act of terrorism; or (vii) natural disaster, including but not limited to earthquake, hurricane, tornado, or flood; or (viii) any other cause beyond the control of a Party (collectively, "Force Majeure Event"), then the Party so affected will, while so affected, be relieved to the extent thus prevented from performing its obligations under this

Agreement. In such event, such Party will take all reasonable measures to remove the disability and to resume full performance under this Agreement at the earliest possible date. If any Party is prevented from performing its obligations under this Agreement in part or in full as a result of a Force Majeure Event, it will give prompt written notice to the other Party, which notice will set forth the nature of such occurrence, the steps being taken and intended to be taken to remove the disability, and an estimate of the date when full performance under this Agreement will be resumed. In the event that SERVICE PROVIDER is prevented from performing some or all of services required by this Agreement as a result of a Force Majeure Event, SCHOOL DISTRICT shall have no obligation to pay for services not performed and SERVICE PROVIDER shall refund any fees already paid by SCHOOL DISTRICT for services that cannot or will not be performed as a result of the Force Majeure Event or the termination of this Agreement due to a Force Majeure Event.

32. **AUTHORITY TO ENTER AGREEMENT:** The undersigned representative of SERVICE PROVIDER hereby represents and warrants that the undersigned is the owner or an officer, director, or agent of SERVICE PROVIDER with full legal rights, power and authority to enter into this Agreement on behalf of SERVICE PROVIDER and to bind SERVICE PROVIDER with respect to the obligations enforceable against SERVICE PROVIDER in accordance with its terms.

33. **COUNTERPARTS:** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same agreement. An executed counterpart transmitted by facsimile or scanned and transmitted by email, when so delivered, shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

WHITE PLAINS CITY SCHOOL DISTRICT

Date:

By: _____
SUPERINTENDENT OF SCHOOLS/PRESIDENT
OF THE BOARD OF EDUCATION/ ASSISTANT
SUPERITENDENT FOR BUSINESS

[INSERT NAME OF SERVICE PROVIDER]

Date:

By: _____

Print Name: _____

Title: _____

Employer Identification # or SS: _____

BUDGET CODE:

EXHIBIT A

ATTACH RFP/RFQ ISSUED FOR THIS CONTRACT

EXHIBIT B

ATTACH CONTRACTOR'S QUOTE/PROPOSAL

**SUBMITTED IN RESPONSE TO THE
RFP/RFQ ISSUED FOR THIS CONTRACT**

EXHIBIT C

WHITE PLAINS CITY SCHOOL DISTRICT'S PARENT BILL OF
RIGHTS FOR DATA PRIVACY AND SECURITY

**ADMINISTRATOR MUST ATTACH THIS EXHIBIT IF THE
CONTRACTOR WILL BE PROVIDED WITH PERSONALLY
IDENTIFIABLE STUDENT INFORMATION/DATA OR
CONFIDENTIAL APPR INFORMATION/DATA ABOUT TEACHERS
OR PRINCIPALS.**

WHITE PLAINS PUBLIC SCHOOLS
NYS EDUCATION LAW SECTION 2-d
DATA SECURITY AND PRIVACY PLAN ADDENDUM
WITH PARENTS' BILL OF RIGHTS

Any vendor/SERVICE PROVIDER (aka: Third Party Contractor) that is handling personally identifiable information (PII) on students or confidential personally identifiable evaluation data (APPR) of classroom teachers or principals in either electronic or paper format, must sign off on the attached forms.

Name of Vendor/Service Provider/Contractor/Company:

Address: _____

Phone #: _____

Name of person completing this form: _____

Title of person completing this form: _____

Signature of person completing this form: _____

Date: _____

to the Agreement and the School District's use of the products and/or services provided by Third-party Contractor, except information available to Third-party Contractor from third parties on an unrestricted basis. Third-party Contractor understands that any unauthorized disclosure, publication and/or communication of such Confidential Information shall be considered a breach of this Addendum and the Agreement. Third-party Contractor agrees that if **he/she/it** receives a request for disclosure of confidential information obtained from the School District, including but not limited to student data or teacher or principal data as defined by New York Education Law Section 2-d, pursuant to a statute, subpoena or court order, **he/she/it** shall notify the School District prior to disclosing the School District's confidential information, unless providing notice of the disclosure is expressly prohibited by the statute, subpoena or court order.

3. Without limiting any of the foregoing statements, Third-party Contractor further agrees:

- a. To execute, comply with and incorporate as Schedule "1" to this Plan, as required by New York State Education Law Section 2-d and its implementing regulations, the Parents' Bill of Rights for Data Privacy and Security developed by the School District;
- b. To adopt technologies, safeguards and practices that align with the NIST Cybersecurity Framework;
- c. To comply with the data security and privacy policy of the School District, New York Education Law Section 2-d and Part 121 of the Regulations of the Commissioner of Education as well as any changes to the policy, law and regulations that may be enacted, adopted and/or become effective during the term of this Agreement;
- d. Not to sell, use or disclose personally identifiable student, teacher or principal data or information for any marketing or commercial purpose or facilitate its use or disclosure by any other party for any marketing or commercial purpose or permit another party to do so;
- e. Not to use the education records of the School District or any personally identifiable student, teacher and/or principal information or data of the School District, as those terms are defined in Education Law Section 2-d and Part 121 of the Regulations of

the Commissioner of Education, for any purpose other than those explicitly authorized in this Plan or the Agreement;

- f. To use and maintain reasonable administrative, technical and physical safeguards and practices that align with the NIST Cybersecurity Framework and are otherwise consistent with industry standards and best practices, including but not limited to encryption technology, firewalls and password protection, to protect the security, confidentiality and integrity of personally identifiable student, teacher and/or principal information or data of the School District while in motion or in the custody of Third-party Contractor from unauthorized disclosure as prescribed by state and federal law, regulations, and the Agreement and the Third-party Contractor represents and warrants that it has the following safeguards and practices in place to protect personally identifiable information of the School District that it receives, maintains, stores, transmits or generates pursuant to the Agreement:
 - i. [insert list or description of safeguards and practices of the Third-party Contractor];
- g. To limit internal access within Third-party Contractor to personally identifiable student, teacher and principal information and data of the School District to only those officers, directors, employees, or authorized sub-contractors or assignees of the Third-party Contractor that are determined to need access to such records or data to perform the services set forth in the Agreement;
- h. To use encryption **using at a minimum Advanced Encryption Standard (AES) 128 bit** to protect personally identifiable student, teacher and or principal information or data of the School District in Third-party Contractor's custody while in motion or at rest from unauthorized disclosure;
- i. Not to disclose any personally identifiable student, teacher or principal information or data of the School District, as those terms are defined in Education Law Section 2-d and Part 121 of the Regulations of the Commissioner of Education , directly or indirectly, to any other party who is not an officer, director, employee or authorized subcontractor or assignee of the Third-party Contractor using the data or information to carry out Third-party Contractor's obligations under the Agreement in compliance with New York State and federal law, regulations, and the Agreement, unless
 - i. the other party has the prior written consent of the applicable student's parent/guardian or of the eligible student; or
 - ii. the other party has the prior written consent of the applicable teacher or principal; or
 - iii. the disclosure to the other party is required by statute, subpoena or court order and the Third-party Contractor provides a notice of disclosure to the New York State Education Department or the School District no later than the time the

information is disclosed, unless providing notice of disclosure is expressly prohibited by the statute, subpoena or court order;

- j. To impose on any sub-contractor engaged by Contractor, with the consent of the School District, to perform any of its obligations under this Agreement the requirement to comply with all the confidentiality and data privacy and security obligations imposed on Contractor in this Agreement and by state and federal law and regulations, including but not limited to Section 2-d of New York State Education Law and Part 121 of the Regulations of the New York State Commissioner of Education;
- k. In the event that a student's parent or guardian or an eligible student seeks to challenge the accuracy of student data pertaining to the particular student, which data may include records maintained, stored, transmitted or generated by the Third-party Contractor pursuant to this Agreement, the challenge will be directed in writing to Dr. Joseph Ricca, Superintendent of Schools, 5 Homeside Lane, White Plains, NY 10605, 914 422-2033, josephricca@wpcsd.k12.ny.us and processed in accordance with the School District's procedures;
- l. In the event that a teacher or principal seeks to challenge the accuracy of teacher or principal data pertaining to the particular teacher or principal, which data may include records maintained, stored, transmitted or generated by the Third-party Contractor pursuant to this Agreement, the challenge will be directed in writing to Dr. Joseph Ricca, Superintendent of Schools, 5 Homeside Lane, White Plains, NY 10605, 914 422-2033, josephricca@wpcsd.k12.ny.us and processed in accordance with the procedures the School District has established for challenging annual professional performance review ("APPR") data;
- m. To immediately notify the School District's Superintendent of Schools in the most expedient way possible and without unreasonable delay and in no event more than seven (7) calendar days after discovering that any personally identifiable information of the School District, its employees, students, teachers, principals or administrators is breached and/or released without authorization;
- n. To take immediate steps to limit and mitigate to the greatest extent practicable the damages arising from any breach or unauthorized release of any personally identifiable information of the School District, its employees, students, teachers, principals or administrators;
- o. In the event of a breach or unauthorized release of any personally identifiable information of the School District, its employees, students, teachers or administrators by or attributable to Third-party Contractor, Third-party Contractor must pay for or promptly reimburse the School District for the full cost of any notifications the School District makes as a result of the breach or unauthorized release;

- p. To cooperate with the School District and other parties to protect the integrity of investigations into the breach or unauthorized release of personally identifiable information.
- q. Parents and/or guardians of students attending the School District’s schools have the right to inspect and review the complete contents of their child's education record, which may include records maintained, stored, transmitted, and/or generated by Third-party Contractor; and
- r. In the event Third-party Contractor breaches any of the privacy and confidentiality provisions of this Plan or the Agreement, the School District, at its sole discretion, may immediately terminate the Agreement.

4. Outline/describe how the Third-party Contractor will implement all state, federal and local data security and privacy requirements over the term of the Agreement in a manner that is consistent with the data security and privacy policy of the School District:

5. Confidentiality Training. Third-party Contractor acknowledges that federal and state laws protect the confidentiality of personally identifiable information of the School District’s students as well as its teachers and principals. Prior to obtaining access or any further access to personally identifiable information of the School District’s students, teachers and principals, Third-party Contractor represents and warrants that any officers, employees, subcontractors or agents of Third-party Contractor, who will have access to student, teacher and/or principal data of the School District, have received or will receive training on the federal and state laws governing confidentiality of such data

[Redacted]

6. The Third-party Contractor represents and warrants that the information contained in the Supplemental Information portion of the Parents' Bill of Rights for Data Privacy and Security of the School District with respect to the Agreement, as stated in Exhibit 1 to this Plan, is accurate.

7. Will the Third-party Contractor utilize sub-contractors in the performance of this Agreement? (check one)

Yes

No

If Yes, how will the Third-party Contractor manage the sub-contractors to ensure personally identifiable data and information is protected?

[Redacted]

8. Describe how the Third-party Contractor will manage data privacy and security incidents that involve personally identifiable data or information, including but not limited to (a) what actions are taken to check for and identify data breaches and unauthorized disclosures of personally identifiable information or data and (b) how the School District will be notified promptly of any data breaches and unauthorized disclosures of personally identifiable data or information? [Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9. Upon the expiration or non-renewal or termination of the Agreement, if requested by the School District, the Third-party Contractor will assist the School District in exporting in a form acceptable to the School District all student, teacher or principal data previously received by the Third-party Contractor or generated by the Third-party Contractor pursuant to the Agreement. In addition, after exporting such data if requested, within ninety (90) days of the expiration or non-renewal or termination of this Agreement, all information and data of the School District remaining in the possession of the Third-party Contractor will be deleted in accordance with the National Institute of Standards and Technology (NIST) standard 800-88.

10. It is understood that further revisions to this Plan or the Agreement may be necessary to ensure compliance with New York State Education Law Section 2-d if School District policies are adopted or revised or if New York Education Law Section 2-d or Part 121 of the Regulations of the Commissioner of Education are amended. Third-party Contractor and the School District agree to take such additional steps as may be necessary at that time to facilitate compliance with New York Education Law Section 2-d and Part 121 of the Regulations of the Commissioner of Education.

11. Except as specifically amended herein, all of the terms contained in the Agreement are hereby ratified and confirmed in all respects, and shall continue to apply with full force and effect.

12. The parties further agree that the terms and conditions set forth in this Plan shall survive the expiration and/or termination of the Agreement.

13. The undersigned representative of Third-party Contractor hereby represents and warrants that the undersigned is the owner or an officer, director, or agent of Third-party Contractor with full legal rights, power and authority to enter into this Addendum on behalf of Third-party Contractor and to bind Third-party Contractor with respect to the obligations enforceable against Third-party Contractor in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Addendum on:

WHITE PLAINS CITY
SCHOOL DISTRICT

Third Party Contractor

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

SCHEDULE 1

Parents' Bill of Rights Pursuant to Education Law §2-d

In accordance with Section 2-d of the New York State Education Law, the White Plains City School District hereby sets forth the following Parents' Bill of Rights for Data Privacy and Security, which is applicable to all students and their parents and legal guardians.

- (1) Section 2-d of the New York State Education Law ("Section 2-d") and the Family Educational Rights and Privacy Act ("FERPA") protect the confidentiality of personally identifiable information. Section 2-d and FERPA assures the confidentiality of records with respect to "third parties," and provides parents with the right to consent to disclosures of personally identifiable information contained in the students' education records. Exceptions to this include school employees, officials and certain State and Federal officials who have a legitimate educational need to access such records. In addition, the District will, upon request of parents, or adult students, or if otherwise required by law, disclose student records to officials of another school district in which a student seeks to enroll.
- (2) A student's personally identifiable information cannot be sold or released for any marketing or commercial purposes. The District will not sell student personally identifiable information and will not release it for marketing or commercial purposes, other than directory information released by the District in accordance with District policy.
- (3) Personally identifiable information of students will be collected and disclosed only as necessary to achieve educational purposes in accordance with State and Federal Law.
- (4) Personally identifiable information includes, but is not limited to:
 - i. The student's name;
 - ii. The name of the student's parent or other family members;
 - iii. The address of the student or student's family;
 - iv. A personal identifier, such as the student's social security number, student number, or biometric record;
 - v. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;

- vi. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
 - vii. Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.
- (5) In accordance with FERPA, Section 2-d and the District's Student Record Policy, parents have the right to inspect and review the complete contents of their child's education record.
- (6) The District has the following safeguards in place to protect student data, including personally identifiable information stored or transferred by the District: Centralized databases utilizing the Advanced Encryption Standard (AES) with minimums of 128 bit key encryption; computer servers are centralized in the district datacenter, which is locked and alarmed; utilizing a variety of intrusion detection software and policies, including firewall protection services of BOCES, antivirus software, network monitoring via WhatsUpGold software; strong/complex password policy with a change in effect every 90 or 180 days depending on the exact software system; constant training and reminders of users to not share usernames or passwords on any database system; annual audit of the safety systems by District's internal auditor.
- (7) New York State, through the New York State Education Department, collects a number of student data elements for authorized uses. A complete list of all student data elements collected by the State is available for public review, at <http://www.nysed.gov/common/nysed/files/programs/student-data-privacy/collected-data-elements-1-17-2020.pdf> or may be obtained by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, NY 12234.
- (8) Parents have the right to have complaints about possible breaches and unauthorized disclosures of student data addressed. Any such complaint should be submitted, in writing, to: Dr. Joseph Ricca, Superintendent of Schools, 5 Homeside Lane, White Plains, NY 10605, 914 422-2033, josephricca@wpcsd.k12.ny.us. Complaints can also be directed to the New York State Education Department online at <http://nysed.gov.data-privacy-security>, by mail to the Chief Privacy Officer, New

York State Education Department, 89 Washington Avenue, Albany, NY 12234 or by email to privacy@mail.nysed.gov or by telephone at 5178-474-0937.

Supplemental Information for Agreement with [REDACTED]
(hereinafter “Third-party Contractor”) The Third-party Contractor will provide the following information and White Plains City School District (the “School District”) will review and approve or require revision of this Supplemental Information until it is acceptable to the School District.

(1) The personally identifiable student data or teacher or principal data (collectively, “the Data”) received by the Third-party Contractor will be used exclusively for the following purpose(s): [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(2) This Third-party Contractor is prohibited from further sharing any student data to subcontractors, research institutions, persons or entities that are not directly an employee or department/office within this Third-party Contractor’s organization, unless written consent to such sharing is obtained from the School District. If such consent is requested and obtained, this Third-party Contractor will ensure that all subcontractors and other authorized persons or entities to whom student data or teacher or principal data will be disclosed will abide by all applicable data protection and security requirements, including those mandated by New York State and federal laws and regulations, by the following means: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(3) Absent renewal, this agreement expires annually on June 30. If the District doesn’t renew the contract past June 30th of the contractual year, within 90 days of the expiration on June 30, all student data shall be deleted in accordance with the National Institute of Standards and Technology (NIST) standard 800-88.

(4) A parent, student, teacher or principal can challenge the accuracy of the Data received by or generated by the Third-party Contractor in writing addressed to, Dr. Joseph Ricca, Superintendent of the White City Plains School District at 5 Homeside Lane, White Plains, NY 10605.

(5) Describe where the Data will be stored (in a manner that will protect data security) and the security protections that will be taken by the Third-party Contractor to ensure the Data will be protected (e.g., offsite storage, use of cloud service provider, secure data center using monitoring of the access doors, fire and security monitoring, system health and intrusion monitoring, data backups and retentions):

(6) Third-party Contractor will use Advanced Encryption Standard (AES) with minimums of 128 bit key encryption or better to protect the Data while in motion or at rest in its custody.

WHITE PLAINS CITY SCHOOL
DISTRICT

THIRD-PARTY CONTRACTOR

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT D

**ATTACH PROOF OF
FINGERPRINTING AND BACKGROUND CHECK
CLEARANCE BY NYSED
OF SERVICE PROVIDER'S EMPLOYEES PROVIDING
SERVICES TO THE SCHOOL DISTRICT**

EXHIBIT E

**ATTACH WRITTEN APPROVAL OF ASSISTANT
SUPERITENDENT FOR BUSINESS FOR MODIFIED
INSURANCE REQUIREMENTS**

EXHIBIT F

**ATTACH VERIFIED PROPOSER NOT ON EXCLUSION LIST
MAINTAINED BY THE FEDERAL GOVERNMENT'S
SYSTEM FOR AWARD MANAGEMENT (SAM)
CERTIFICATION FORM**

**PROPOSER NOT ON EXCLUSION LIST MAINTAINED BY THE FEDERAL GOVERNMENT'S
SYSTEM FOR AWARD MANAGEMENT (SAM) CERTIFICATION FORM
THIS FORM MUST BE SIGNED AND NOTARIZED**

I, _____, being duly sworn, deposes and says that
(Name of Individual Signing this Certification)

I am the _____ of the _____
(Title/Position of Signer) (Name of Proposer)

and that by submission of this proposal, I certify on behalf of the above-named proposer, under penalty of perjury, that the above-named proposer is not on the Exclusion List maintained by the U.S. Government's System for Award Management (SAM).

Signature

Sworn to before me this
____ day of _____, 2020

Notary Public

Portion of this form below this line is FOR OFFICE USE ONLY. Proposer completes only portion of the form above this line. The portion of this form below this line will be completed by White Plains City School District (WPCSD) employee requesting new or updated vendor information.

Print WPCSD Employee Name and Title: _____

Date reviewed U.S. Government's SAM's Exclusion List: _____

Proposer Name: _____

Check the one that applies:

Proposer was NOT included on U.S. Government's SAM's Exclusion List

Proposer was included on U.S. Government's SAM's Exclusion List

WPCSD Employee Signature: _____