

Board Office Use: Legislative File Info.	
File ID Number	25-1550
Introduction Date	6/25/25
Enactment Number	
Enactment Date	

Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Preston Thomas, Chief Systems and Services Officer
Susan Beltz, Chief Technology Officer

Meeting Date June 25, 2025

Subject Approval of Resolution No. 2425-0225 Authorizing Use of *Graydon* Exception to Public Bidding; Approval by the Board of Education of Approval by the Board of Education of Amendment No. 2 to Agreement for Acquisition of License for Aeries Software between Oakland Unified School District and Aeries Software, Inc.; Ratification of Data Privacy Agreement between Oakland Unified School District and Aeries Software, Inc.
Contractor: Aeries Software, Inc.
Services For: July 1, 2025 - June 30, 2028

Ask of the Board Approve Resolution No. 2425-0225 Authorizing Use of *Graydon* Exception to Public Bidding; Approve Amendment No. 2 to Agreement for Acquisition of License for Aeries Software between Oakland Unified School District and Aeries Software, Inc., Orange, CA, for the latter to provide licensing, hosting, upgrades and support for the Aeries Student Information System (SIS) and Aeries Communications (powered by ParentSquare) for the period July 1, 2025 to June 30, 2028 for an amount not to exceed \$1,405,703.82, consisting of a) \$425,774.82 for 2025-26, including \$243,823.22 for the Aeries SIS and \$181,951.60 for Aeries Communications, b) \$474,789.60 for 2026-27, including \$279,310.00 for the Aeries SIS and \$195,479.60 for Aeries Communications, and c) \$505,139.40 for 2027-28, including \$299,852.00 for the Aeries SIS and \$205,287.40 for Aeries Communications; Ratification of Data Privacy Agreement between Oakland Unified School District and Aeries Software, Inc.

Background The Oakland Unified School District has successfully used Aeries as its student information system (SIS) for 2024-25 and for over 15 prior school years, and has used Aeries Communications as its primary communications tool since the 2020-21 pilot school year, which was followed by a districtwide launch. Oakland Unified is using this firm going forward for the same services as previously provided, and is adding Aeries hosting services to provide vendor-hosting of the SIS. The Aeries SIS is used by Oakland Unified School District (OUSD) staff to manage student data,

including attendance, master scheduling, grade reporting, discipline records, state-mandated reporting, and many other student data requirements. Aeries Communications (powered by ParentSquare) provides an integrated and streamlined communications solution. The most recent renewal of the Aeries SIS and Aeries Communications was approved by the Board of Education on June 29, 2022 as Legistar File ID #22-1443 and is being extended via the current proposed amendment.

Discussion

The Technology Services Department has historically hosted the Aeries database and application in our OUSD data centers. However, Aeries is now moving all customers to a vendor-hosted model, as is common for other leading student information system vendors. The current amendment includes licensing, hosting, upgrades and support for the 2025-26, 2026-27 and 2027-28 fiscal years. Approval of this Amendment No. 2 will enable OUSD to continue using its SIS to help ensure the continued successful management of student information.

As noted above, the Oakland Unified School District also successfully piloted Aeries Communications (powered by ParentSquare) during 2020-21 followed by a successful districtwide launch. Because this system integrates natively with Aeries and supports multiple modes of communications, it replaced multiple other communications systems and has streamlined overall District communications. Approval of this Agreement will enable OUSD to continue using Aeries Communications district-wide to provide critical and timely communications to OUSD students and families.

In order to host the SIS, Aeries Software, Inc. requires access to District student data, warranting an updated data privacy agreement. Accordingly, the District and Aeries Software, Inc. executed the enclosed data sharing agreement on 05/29/2025, and now ask the Board to ratify this agreement.

This data sharing agreement is the standard California - National Student Data Privacy Agreement (CA-NDPA), adopted by the California Student Privacy Alliance to meet the requirements of the Family Educational Rights and Privacy Act (FERPA) and Assembly Bill 1584 (which allows school districts to share data with software providers so long as the contracts include certain specified provisions).

The standard terms of the CA-NDPA ensure that the vendor will take all precautions to safeguard our students' data. The term of the CA-NDPA is the same as the term of the underlying services agreement.

The CA-NDPA is a piggy-backable agreement. This means that a software vendor may enter the CA-NDPA with one school district and thereafter, by signing Exhibit E (which consists of a "general offer of terms") allow any other school district to countersign Exhibit E and be entitled to the same protections set forth in the underlying CA-NDPA.

Here, Aeries Software, Inc. has signed the CA-NDPA with the Oakland Unified

School District, and it further signed Exhibit E, which, again, allows any other school district to likewise sign Exhibit E and share the same data with Aeries, Software, Inc. under the same terms. Accordingly, the District signed the CA-NDPA on 05/29/2025, and now asks the Board to ratify this agreement.

Fiscal Impact

\$243,823.22 from 2025-26 Funding Resource: General Purpose (GP), Data Processing, License Agreements Districtwide:
010-0000-0-0000-7700-5846-999-9860-9994-9999-99999:

\$181,951.60 from 2025-26 Funding Resource: State Lottery, Data Processing, License Agreements, Districtwide:
010-1100-0-0000-7700-5846-999-9860-1605-9999-99999

\$279,310.00 from 2026-27 Funding Resource: General Purpose (GP), Data Processing, License Agreements Districtwide: 010-0000-0-0000-7700-5846-999-9860-9994-9999-99999:

\$195,479.60 from 2026-27 Funding Resource: State Lottery, Data Processing, License Agreements, Districtwide:
010-1100-0-0000-7700-5846-999-9860-1605-9999-99999

\$299,852.00 from 2027-28 Funding Resource: General Purpose (GP), Data Processing, License Agreements: Districtwide010-0000-0-0000-7700-5846-999-9860-9994-9999-99999

\$205,287.40 from 2027-28 Funding Resource: State Lottery, Data Processing, License Agreements, Districtwide:
010-1100-0-0000-7700-5846-999-9860-1605-9999-99999

Attachment(s)

- Resolution No. 2425-0225
- Amendment No. 2 to Agreement for Acquisition of License for Aeries Software (2025-26, 2026-27 and 2027-28)
- Quote Q-04423
- File 22-1443 Prior Graydon Exception, Amendment No. 1, and Contract
- Aeries Software, Inc. California National Student Data Privacy Agreement with Exhibit E

**RESOLUTION OF THE
BOARD OF EDUCATION
OAKLAND UNIFIED SCHOOL DISTRICT**

RESOLUTION NO. 2425-0225

**AUTHORIZING USE OF *GRAYDON* EXCEPTION TO PUBLIC BIDDING FOR
CONTRACT WITH AERIES SOFTWARE AND APPROVING AGREEMENT FOR
ACQUISITION OF LICENSE FOR AERIES SOFTWARE**

WHEREAS, the Oakland Unified School District (“District”) has a need to contract with a vendor to provide hosting, licensing, upgrades and support for the Aeries Student Information System (SIS) and Aeries Communications (powered by ParentSquare);

WHEREAS, the contemplated contract is in an amount of \$1,405,703.82 over three years, consisting of a) \$425,774.82 for 2025-26, including \$243,823.22 for the Aeries SIS and \$181,951.60 for Aeries Communications, b) \$474,789.60 for 2026-27, including \$279,310.00 for the Aeries SIS and \$195,479.60 for Aeries Communications, and c) \$505,139.40 for 2027-28, including \$299,852.00 for the Aeries SIS and \$205,287.40 for Aeries Communications;

WHEREAS, under Public Contracts Code section 20111, a contract in this amount would ordinarily require competitive bidding;

WHEREAS, one exception to this competitive bidding requirement is where “the nature of the subject of the contract is such that [bidding] would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible.” (*Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631, 645.)

WHEREAS, under this exception, a contract need not be bid where bidding would not serve its intended purpose--namely, to protect taxpayers from possible waste and dissipation of public funds--because it would “substantially impair[]” the public entity’s ability to operate, and/or would impose unnecessary additional costs (*Ibid.*);

WHEREAS, the District has been successfully utilizing software provided by Aeries for over 15 prior school years, and relies on the software and services to manage student data, including attendance, master scheduling, grade reporting, discipline records, state-mandated reporting, and many other student data requirements throughout the District;

WHEREAS, the District has successfully piloted Aeries Communications during the 2020-21 school year followed by a successful districtwide launch;

WHEREAS, Aeries Communications is natively integrated with the Aeries Student Information System, which is not the case for other communications platforms;

WHEREAS, the District’s original agreement with Aeries was approved by the Board of Education on July 14, 2004 as File ID 04-1141;

WHEREAS, the initial selection of Aeries was based upon a competitive-bid process (Award of Bid No. 03-04/30) with Aeries as the lowest responsible bidder;

WHEREAS, the Oakland Unified School District receives the Aeries SIS at a price which is competitive with other leading student information systems;

WHEREAS, a transition to another student information system would be a multi-year project with significant one-time costs, as evidenced by the original contract from 2004 which included a total cost not to exceed \$11,604,056.00 over five years

WHEREAS, the addition of Aeries Communications and Aeries hosting services have caused the renewal price for Aeries to exceed the competitive bid threshold;

WHEREAS, it would be cost-prohibitive, and could result in time gaps in the management and reporting of student data, including the completion of mandated state reporting, to transition to another system;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board finds and declares that going out to bid for the software and services provided by Aeries Software would not produce any advantage, would result in wasted taxpayer funds, and would substantially impair the District's ability to operate because it could result in time gaps in the management and reporting of student data, including the completion of mandated state reporting
2. Competitive bidding is therefore excused under the reasoning of *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631 and related case law, allowing the District to contract directly with Aeries.
3. Amendment No. 2 to Agreement for Acquisition of License for Aeries Software, for the period July 1, 2025 to June 30, 2028 for an amount not to exceed \$1,405,703.82, consisting of a) \$425,774.82 for 2025-26, including \$243,823.22 for the Aeries SIS and \$181,951.60 for Aeries Communications, b) \$474,789.60 for 2026-27, including \$279,310.00 for the Aeries SIS and \$195,479.60 for Aeries Communications, and c) \$505,139.40 for 2027-28, including \$299,852.00 for the Aeries SIS and \$205,287.40 for Aeries Communications, is hereby approved.

PASSED AND ADOPTED on June 25, 2025, by the Governing Board of the Oakland Unified School District by the following vote:

PREFERENTIAL AYE:

PREFERENTIAL NOE:

PREFERENTIAL ABSTENTION:

PREFERENTIAL RECUSE:

AYES:

NOES:

ABSTAINED:

RECUSED:

ABSENT:

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on June 25, 2025.

Legislative File	
File ID Number:	25-1550
Introduction Date:	6/25/25
Enactment Number:	
Enactment Date:	
By:	

OAKLAND UNIFIED SCHOOL DISTRICT

Jennifer Brouhard
President, Board of Education

Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education



AMENDMENT NO. 2 to

_____ Agreement for Acquisition of License for Aeries Software _____

This Amendment ("AMENDMENT") amends the attached Original Agreement, inclusive of any prior amendments to the Original Agreement (together, "AGREEMENT"). Except as explicitly stated herein, all provisions and terms of the AGREEMENT remain unchanged and in full force and effect as originally stated.

1. The PARTIES hereby agree to amend the AGREEMENT as stated herein.

A. Services.

- ☐ The SERVICES are unchanged.
- ☐ The SERVICES have changed as indicated below:
 - ☐ A description of the changes in the SERVICES is attached.

■ The changes in the SERVICES involve the following: Services will continue as per the old agreement with one additional service: Aeries will also be providing cloud hosting services for the Student Information System (SIS). The terms and conditions of the old agreement shall continue to govern the relationship between the parties with respect to all services including cloud hosting services for the Student Information System (SIS).

B. Term.

- ☐ The term of the AGREEMENT is unchanged.
- ☐ The term of the AGREEMENT has changed as indicated below:

Original End Date: June 30, 2025

New End Date: June 30, 2028

C. Compensation.

- ☐ The not-to-exceed amount in the AGREEMENT is unchanged
- The not-to-exceed amount in the AGREEMENT has changed as indicated below:

Original not-to-exceed amount is \$1,314,402.56.

The original not-to-exceed amount		The original not-to-exceed amount
shall be <u>increased</u> by:	OR	shall be <u>decreased</u> by:


\$1,405,703.82

The new not-to-exceed amount is \$2,720,106.38.

- D. Insurance.** To the extent that the AGREEMENT required less than following insurance coverage amounts, by signing this AMENDMENT, VENDOR agrees, unless waived under the terms of the AGREEMENT, that it shall maintain Commercial General Liability Insurance with limits of at least one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) aggregate. All other terms in the AGREEMENT regarding Commercial General Liability Insurance remain the same.
- E. Suspension.** To the extent that the AGREEMENT did not contain a provision regarding suspension of the AGREEMENT, VENDOR agrees, by signing this AMENDMENT, that if OUSD, at its sole discretion, develops health and safety concerns related to the VENDOR's provision of SERVICES, then the OUSD Superintendent or an OUSD Chief may, upon approval by OUSD legal counsel, issue a notice to VENDOR to suspend this AGREEMENT, in which case VENDOR shall stop providing SERVICES under this AGREEMENT until further notice from OUSD. OUSD shall compensate VENDOR for the SERVICES satisfactorily provided through the date of suspension.
- F. Legal Notices.** To the extent the AGREEMENT did not contain the following provisions, legal notices may be sent either (i) via email, (ii) personally delivered during normal business hours, or (iii) sent by U.S. Mail (certified, return receipt requested), to the contact identified in the AGREEMENT. VENDOR agrees that the address for legal notice to OUSD is 1011 Union St., Site 946, Oakland, CA 94607.
2. The PARTIES acknowledge that this AMENDMENT, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
 3. Each PARTY has the full power and authority to enter into and perform this AMENDMENT, and the person(s) signing this AMENDMENT on behalf of each PARTY has been given the proper authority and empowered to enter into this AMENDMENT, except that only the Superintendent, Chiefs, Deputy Chiefs, and the General Counsel have authority under the Education Code or Board Policy to sign contracts for OUSD and only under limited circumstances, with ratification by the OUSD Governing Board being required. VENDOR agrees not to accept the signature of another other OUSD employee as having the proper authority and empowered to enter into this AMENDMENT or as legally binding in any way.
 4. OUSD shall not be bound by the terms of this AMENDMENT unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, Chiefs, Deputy Chiefs, or the General Counsel as authorized by the Education Code or Board Policy, and no payment shall be owed or made to VENDOR absent such formal approval or valid and proper execution.

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this AMENDMENT and to be bound by its terms and conditions:

VENDOR

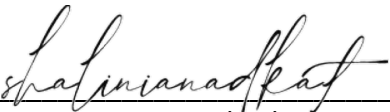
Name: James Mallory
Signature: 
Position: Vice President, Operations
Date: 05/29/2025

OUSD

Name: _____
Signature: _____
Position: _____
Date: _____
☐ Board President (for approvals)
☐ Chief/Deputy Chief/Executive Director (for ratifications)

Name: Kyla Johnson-Trammell
Signature: _____
Position: Superintendent and Secretary, Board of Education
Date: _____

Template approved as to form by OUSD Legal Department.


Shalini Anadkat 5/28/2025

770 The City Drive South
Orange, CA 92868
US

Quote Date: 5/8/2025
Quote Number: Q-04423
Expiration Date: 8/6/2025

Prepared by: Breana Lobo
Phone:
Email: breanal@aeries.com

Prepared for: Oakland Unified School District
Phone: (510) 879-8873
Email: susan.beltz@ousd.k12.ca.us

Terms: Net 30

Bill to: Oakland Unified School District
Attn: Susan Beltz
Address: 900 High St.
Oakland, CA 94601

Aeries Renewal 2025/2026

Product Name	Qty	List Price	Start Date	End Date	Extended
Aeries Classic Student Information System	33,820	\$4.62	7/1/2025	6/30/2026	\$156,248.40
Aeries Communications	33,820	\$5.38	7/1/2025	6/30/2026	\$181,951.60
Aeries Renewal 2025/2026 TOTAL:					\$338,200.00

Aeries Cloud Hosted Services - Full Implementation

Pro-Rated

Product Name	Qty	List Price	Start Date	End Date	Extended
Aeries Cloud Hosting Services	33,820	\$2.85	9/1/2025	6/30/2026	\$80,491.60
Aeries Database Maintenance, per additional year	34	\$250.00	9/1/2025	6/30/2026	\$7,083.22
Aeries Cloud Hosted Services - Full Implementation TOTAL:					\$87,574.82

Aeries Renewal 2026/2027

With Cloud Hosting

Product Name	Qty	List Price	Start Date	End Date	Extended
Aeries Cloud Hosting Services	33,820	\$3.15	7/1/2026	6/30/2027	\$106,533.00
Aeries Classic Student Information System	33,820	\$4.85	7/1/2026	6/30/2027	\$164,027.00

Product Name	Qty	List Price	Start Date	End Date	Extended
Aeries Database Maintenance, per additional year	35	\$250.00	7/1/2026	6/30/2027	\$8,750.00
Aeries Communications	33,820	\$5.78	7/1/2026	6/30/2027	\$195,479.60
Aeries Renewal 2026/2027 TOTAL:					\$474,789.60

Aeries Renewal 2027/2028 With Cloud Hosting

Product Name	Qty	List Price	Start Date	End Date	Extended
Aeries Cloud Hosting Services	33,820	\$3.51	7/1/2027	6/30/2028	\$118,708.20
Aeries Classic Student Information System	33,820	\$5.09	7/1/2027	6/30/2028	\$172,143.80
Aeries Database Maintenance, per additional year	36	\$250.00	7/1/2027	6/30/2028	\$9,000.00
Aeries Communications	33,820	\$6.07	7/1/2027	6/30/2028	\$205,287.40
Aeries Renewal 2027/2028 TOTAL:					\$505,139.40

Order Acceptance Information:

The communication services offered through ParentSquare are subject to the terms contained in this Purchase Agreement / Order Form and the ParentSquare School Agreement located collectively at:

<https://www.parentsquare.com/agreement/>,

<https://www.parentsquare.com/terms/>, and

<https://www.parentsquare.com/privacy/>.

These are incorporated by reference into this Purchase Agreement / Order Form ("ParentSquare School Agreement"), including any exceptions listed in the Exceptions section.

One-time services will be invoiced immediately. Subscription services will be invoiced on the start date listed above. For quoting and pricing purposes, Aeries uses the most recent available data provided by public agencies such as NCES/Data Quest to determine enrollment numbers for public school districts. Given year-to-year fluctuations in enrollment numbers, Aeries reserves the right to rely on these public data sets and reserves the right not to change quoted enrollment numbers unless Customer can provide evidence that the variance is greater than 5%. Prices shown above do not include any state or local taxes that may apply. Any such taxes are the responsibility of the customer and will appear on the final invoice. Customer is responsible for deducting and remitting any withholding taxes as required by local tax regulations and should provide a copy of the WHT certificate to Aeries within 3 days of receipt.

Terms and Conditions:

This Order Form shall become legally binding upon signing and returning it to Aeries by the Customer. Orders are non-cancelable before the Contract End Date. This Order Form is exclusively governed by the terms and policies stated below.

Aeries Master Services Agreement (MSA) found at: <https://www.aeries.com/master-services-agreement/>

Aeries Terms of Services found at: <https://www.aeries.com/terms-of-service/>

Aeries Privacy Policy found at: <https://www.aeries.com/privacy-policy/>

By signing this Agreement, I certify that I am authorized to sign on behalf of the Customer and agree to the Terms and Conditions of this Order Form and any documents incorporated herein.

To place your order, please sign and return to sales@aeries.com.

Name

Signature

Title

Date

Notes:

Board Office Use: Legislative File Info.	
File ID Number	22-1443
Introduction Date	6/29/22
Enactment Number	22-1268
Enactment Date	6-29-2022 CJH



Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Preston Thomas, Chief Systems and Services Officer
Susan Beltz, Chief Technology Officer

Meeting Date June 29, 2022

Subject Approval of Resolution No. 2122-0235 Authorizing Use of *Graydon* Exception to Public Bidding; Approval by the Board of Education of Amendment No. 1 to Agreement for Acquisition of License for Aeries Software between Oakland Unified School District and Aeries Software, Inc.
Contractor: Aeries Software, Inc.
Services For: July 1, 2022 - June 30, 2025

Ask of the Board Approve Resolution No. 2122-0235 Authorizing Use of *Graydon* Exception to Public Bidding; Approve Amendment No. 1 to Agreement for Acquisition of License for Aeries Software between Oakland Unified School District and Aeries Software, Inc., Orange, CA, for the latter to provide licensing, upgrades and support for the Aeries Student Information System (SIS) and Aeries Communication (powered by ParentSquare) for the period July 1, 2022 to June 30, 2025 for an amount not to exceed \$1,314,402.56 consisting of the original 2021-22 contract amount of \$305,027.60, plus an amendment to increase the amount by \$1,009,374.96 and extend licensing through June 30, 2025, with the amendment to include a) \$322,740.88 for 2022-23, including \$132,220.88 for the Aeries SIS and \$190,520.00 for Aeries Communications, b) \$336,077.28 for 2023-24, including \$145,557.28 for the Aeries SIS and \$190,520.00 for Aeries Communications, and c) \$350,556.80 for 2024-25, including \$160,036.80 for the Aeries SIS and \$190,520.00 for Aeries Communications.

Background The Oakland Unified School District has successfully used Aeries as its student information system (SIS) for 2021-22 and for over 10 prior school years, and completed a successful pilot of Aeries Communications during the 2020-21 school year followed by a districtwide launch. Oakland Unified is using this firm going forward for the same services as previously provided. The Aeries SIS is used by Oakland Unified School District (OUSD) staff to manage student data, including attendance, master scheduling, grade reporting, discipline records, state-mandated reporting, and many other student data requirements. Aeries Communications (powered by ParentSquare) provides an integrated and

streamlined communications solution. The 2021-22 renewal of the Aeries SIS and pilot of Aeries Communications was previously approved by the Board of Education as Legistar File ID #21-1549.

Discussion

The Technology Services department hosts the Aeries database and application in our OUSD data centers. Upgrades are performed approximately six times per year to ensure that our Aeries version is current and supported. The Agreement for Acquisition of License for Aeries Software with Aeries Software includes licensing, upgrades and support for the 2021-22 fiscal year, and the proposed amendment includes licensing, upgrades and support for the 2022-23, 2023-24 and 2024-25 fiscal years. Approval of this Agreement will enable OUSD to continue using its SIS to help ensure the continued successful management of student information.

As noted above, the Oakland Unified School District also successfully piloted Aeries Communications (powered by ParentSquare) during 2020-21 followed by a successful districtwide launch. Because this system integrates natively with Aeries and supports multiple modes of communications, it has the potential to replace other systems and streamline communications going forward. Approval of this Agreement will enable OUSD to continue using Aeries Communications districtwide to provide critical and timely communications to OUSD students and families.

Competitively Bid

No. See attached Resolution No. 2122-0235 - Determining and Declaring that OUSD Can Enter into Amendment No. 1 to Agreement for Acquisition of License for Aeries Software Without Competitive Bidding.

Fiscal Impact

\$322,740.88 from 2022-23 Funding Resource 010-0000-0-0000-7700-5846-999-9860-9994-9999-99999: General Purpose (GP), Data Processing, License Agreements, Districtwide

\$336,077.28 from 2023-24 Funding Resource 010-0000-0-0000-7700-5846-999-9860-9994-9999-99999: General Purpose (GP), Data Processing, License Agreements, Districtwide

\$350,556.80 from 2024-25 Funding Resource 010-0000-0-0000-7700-5846-999-9860-9994-9999-99999: General Purpose (GP), Data Processing, License Agreements, Districtwide

Attachment(s)

- Resolution No. 2122-0235
- Amendment No. 1 to Agreement for Acquisition of License for Aeries Software (2022-23, 2023-24 and 2024-25)
- Quote Q-01297-22
- File 21-1549 Original Graydon Exception and Contract

**RESOLUTION OF THE
BOARD OF EDUCATION
OAKLAND UNIFIED SCHOOL DISTRICT**

RESOLUTION NO. [2122-0235]

**AUTHORIZING USE OF *GRAYDON* EXCEPTION TO PUBLIC BIDDING FOR
CONTRACT WITH AERIES SOFTWARE AND APPROVING AMENDMENT NO. 1 TO
AGREEMENT FOR ACQUISITION OF LICENSE FOR AERIES SOFTWARE**

WHEREAS, the Oakland Unified School District (“District”) has a need to contract with a vendor to provide hosting, licensing, upgrades and support for the Aeries Student Information System (SIS) and Aeries Communications (powered by ParentSquare);

WHEREAS, the contemplated contract is in an amount of \$1,314,402.56 consisting of the original 2021-22 contract amount of \$305,027.60, plus the proposed amendment to increase the amount by \$1,009,374.96 and extend licensing through June 30, 2025, with the amendment to include a) \$322,740.88 for 2022-23, including \$132,220.88 for the Aeries SIS and \$190,520.00 for Aeries Communications, b) \$336,077.28 for 2023-24, including \$145,557.28 for the Aeries SIS and \$190,520.00 for Aeries Communications, and c) \$350,556.80 for 2024-25, including \$160,036.80 for the Aeries SIS and \$190,520.00 for Aeries Communications;

WHEREAS, under Public Contracts Code section 20111, a contract in this amount would ordinarily require competitive bidding;

WHEREAS, one exception to this competitive bidding requirement is where “the nature of the subject of the contract is such that [bidding] would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible.” (*Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631, 645.)

WHEREAS, under this exception, a contract need not be bid where bidding would not serve its intended purpose--namely, to protect taxpayers from possible waste and dissipation of public funds--because it would “substantially impair[]” the public entity’s ability to operate, and/or would impose unnecessary additional costs (*Ibid.*);

WHEREAS, the District has been successfully utilizing software provided by Aeries for over 10 prior school years, and relies on the software and services to manage student data, including attendance, master scheduling, grade reporting, discipline records, state-mandated reporting, and many other student data requirements throughout the District;

WHEREAS, the District successfully piloted Aeries Communications during the 2020-21 school year followed by a successful districtwide launch;

WHEREAS, Aeries Communications is natively integrated with the Aeries Student Information System, which is not the case for other communications platforms;

WHEREAS, the District’s original agreement with Aeries was approved by the Board of Education on July 14, 2004 as File ID 04-1141, and the contract renewal for 2021-22 was subsequently approved by the Board of Education on June 30, 2021 as File ID 21-1549;

WHEREAS, the initial selection of Aeries was based upon a competitive-bid process (Award of Bid No. 03-04/30) with Aeries as the lowest responsible bidder;

WHEREAS, the Oakland Unified School District receives the Aeries SIS at a highly discounted rate of \$3.47 to \$4.40 per student per year, in contrast to the retail price for the Aeries SIS of \$5.00 per student per year, the retail price for Aeries being lower or comparable to other leading student information systems;

WHEREAS, a transition to another student information system would be a multi-year project with significant one-time costs, as evidenced by the original contract from 2004 which included a total cost not to exceed \$11,604,056.00 over five years

WHEREAS, price increases in recent years and the addition of Aeries Communications have caused the renewal price for Aeries to exceed the competitive bid threshold;

WHEREAS, it would be cost-prohibitive, and could result in time gaps in the management and reporting of student data, including the completion of mandated state reporting, to transition to another system;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board finds and declares that going out to bid for the software and services provided by Aeries Software would not produce any advantage, would result in wasted taxpayer funds, and would substantially impair the District's ability to operate because it could result in time gaps in the management and reporting of student data, including the completion of mandated state reporting
2. Competitive bidding is therefore excused under the reasoning of *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631 and related case law, allowing the District to contract directly with Aeries.
3. The Acquisition of License for Aeries Software, for the period July 1, 2021 to June 30, 2025 for an amount not to exceed \$1,314,402.56 consisting of the original 2021-22 contract amount of \$305,027.60, plus the proposed amendment to increase the amount by \$1,009,374.96 and extend licensing through June 30, 2025, with the amendment to include a) \$322,740.88 for 2022-23, including \$132,220.88 for the Aeries SIS and \$190,520.00 for Aeries Communications, b) \$336,077.28 for 2023-24, including \$145,557.28 for the Aeries SIS and \$190,520.00 for Aeries Communications, and c) \$350,556.80 for 2024-25, including \$160,036.80 for the Aeries SIS and \$190,520.00 for Aeries Communications, is hereby approved.

PASSED AND ADOPTED on June 29, 2022, by the Governing Board of the Oakland Unified School District by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Aimee Eng, Clifford Thompson, Vice President Benjamin "Sam" Davis, President Gary Yee

NOES: None

ABSTAINED: VanCedric Williams, Mike Hutchinson

RECUSED: None

ABSENT: Student Director Natalie Gallegos Chavez, Student Director Samantha Pal

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on June 29, 2022.

Legislative File	
File ID Number:	22-1443
Introduction Date:	06/29/22
Enactment Number:	22-1268
Enactment Date:	6-29-2022 CJH
By:	

OAKLAND UNIFIED SCHOOL DISTRICT



6-30-2022

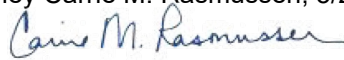
Gary Yee
President, Board of Education



6-30-2022

Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education

Approved as to form by OUSD Attorney Carrie M. Rasmussen, 5/23/22



AMENDMENT NO. 1

to

Title of Original Contract/Agreement Agreement for Acquisition of License for Aeries Software

This Amendment amends the attached legal agreement ("Original Agreement") and any prior amendments ("Prior Amendments," together with Original Agreement, "(Amended) Agreement"), incorporated herein by reference, which includes the following information:

- The (Amended) Agreement is between the Oakland Unified School District ("OUSD") and the below named entity or individual ("VENDOR," together with OUSD, "PARTIES"):

Full Name of Vendor **Aeries Software, Inc.**

- The Parties entered into the Original Agreement on the below date:

Enactment Date **July 1, 2021**

- The Enactment Number of the Original Agreement is below:

Enactment No. **21-1073**

The PARTIES hereby agree to amend the (Amended) Agreement as stated herein.

1. **Services:**

☒ The scope of work of the (Amended) Agreement is unchanged.

☐ The scope of work of the (Amended) Agreement has changed. If the scope of work has changed: Provide brief description of revised scope of work including measurable description of expected final results, such as services, materials, products, and/or reports; select the appropriate option below:

☐ Revised scope of work attached

☐ VENDOR agrees to provide the following amended services:

Description of revision(s) to scope of w **Aeries will extend licenses for OUSD to use the Aeries Student Information System (SIS) and Aeries Communications (powered by ParentSquare) through June 30, 2025**

2. **Term** (duration): ☐ The term of the (Amended) Agreement is unchanged
☒ The term of the (Amended) Agreement has changed.
If the term has changed: The parties agree to amend the below original End Date of the (Amended) Agreement to the below new End Date:
Original End Date: **June 30, 2022**
New End Date: **June 30, 2025**

3. **Compensation**: ☐ The not-to-exceed amount in the (Amended) Agreement is unchanged
☒ The not-to-exceed amount in the (Amended) Agreement has changed. If the not-to-exceed amount has changed: The not-to-exceed amount in the (Amended) Agreement is amended as follows:
☒ Increase not-to-exceed amount by:
\$ **1,009,374.96**.
☐ Decrease not-to-exceed amount by:
\$ **N/A**.
The new not-to-exceed amount under the (Amended) Agreement, as herein amended, is
\$ **1,314,402.56**.

4. **COVID-19**: To the extent that the Agreement did not contain the following guarantees, by signing this Amendment, **VENDOR** agrees that:
- Through its execution of this Amendment, **VENDOR** declares that it is able to meet its obligations and perform the Services required pursuant to this Amendment in accordance with any shelter-in-place (or similar) order or curfew (or similar) order ("Orders") issued by local or state authorities and with any social distancing/hygiene (or similar) requirements.
 - VENDOR** agrees to notify OUSD within twelve (12) hours if **VENDOR** or any employee, subcontractor, agent, or representative of **VENDOR** tests positive for COVID-19, shows or reports symptoms consistent with COVID-19, or reports to **VENDOR** possible COVID-19 exposure.
 - VENDOR** agrees to immediately adhere to and follow any OUSD directives regards health and safety protocols including, but not limited to, providing OUSD with information regarding possible exposure of

OUSD employees to VENDOR or any employee, subcontractor, agent, or representative of VENDOR and information necessary to perform contact tracing, as well as complying with any OUSD testing and vaccination requirements.

d. VENDOR shall bear all costs of compliance with this Paragraph.

5. **Remaining Provisions:** All other provisions of the (Amended) Agreement remain unchanged and in full force and effect as originally stated.

6. **Amendment Publicly Posted.** This Amendment, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.

7. **Signature Authority.**

a. Each PARTY has the full power and authority to enter into and perform this Amendment, and the person(s) signing this Amendment on behalf of each PARTY has been given the proper authority and empowered to enter into this Amendment.


b. Notwithstanding subparagraph (a), only the Superintendent, Chiefs, Deputy Chiefs, and the General Counsel has authority to sign contracts for OUSD and only under limited circumstances, which required ratification by the OUSD Governing Board. VENDOR agrees not to accept the signature of another other OUSD employee as having the proper authority and empowered to enter into this Amendment or as legally binding in any way.

8. **Amendment Contingent on Governing Board Approval.** OUSD shall not be bound by the terms of this Amendment unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, the General Counsel, or a Chief or Deputy Chief authorized by the Education Code or Board Policy, and no payment shall be owed or made to VENDOR absent such formal approval or valid and proper execution.

REST OF PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this Agreement and to be bound by its terms and conditions:

VENDOR

Name: Jonathan Cotton Signature: 

Position: Executive Director of Operations Date: 05/20/2022

One of the terms and conditions to which VENDOR agrees by its signature is subparagraph (e) of Paragraph 8 (Compensation), which states that VENDOR acknowledges and agrees not to expect or demand payment for any Services performed prior to the PARTIES, particularly OUSD, validly and properly executing this Agreement until this Agreement is validly and properly executed and shall not rely on verbal or written communication from any individual, other than the President of the OUSD Governing Board, the OUSD Superintendent, or the OUSD General Counsel, stating that OUSD has validly and properly executed this Agreement. VENDOR specifically acknowledges and agrees to this term/condition on the above date.

OUSD

Name: Gary Yee Signature: 

Position: Date: 6/30/2022

- ☒ Board President
☐ Superintendent
☐ Chief/Deputy Chief/Executive Director

Name: Kyla Johnson-Trammell Signature: 

Position: Secretary, Board of Education Date: 6/30/2022



Aeries Software, Inc.

A solution where data empowers, never impedes.

PREPARED BY
Sonia Cassatt
soniac@aeries.com

Quote #: Q-01297-22
Date: 05/11/2022 2:51 PM
Expires On: 7/1/2025

District: Oakland School District

Contact: Susan Beltz
Email: susan.beltz@ousd.k12.ca.us

Phone: (510) 879-8872
Address: 900 High St.
Oakland, CA 94601

Pricing provided has been prepared for the following terms:

7/1/2022 - 6/30/2023, 7/1/2023 - 6/30/2024, 7/1/2024 - 6/30/2025

Aeries SIS Software & Annual Subscription 7/1/2022-6/30/2023

QTY	PRODUCTS	UNIT PRICE	EXTENDED
38104	Aeries Software License/Support Subscription 10% increase	\$3.47	\$132,220.88
38104	Aeries Communications by PSQ	\$5.00	\$190,520.00
Year 1 Subtotal			\$322,740.80

Aeries SIS Software & Annual Subscription 7/1/2023-6/30/2024

QTY	PRODUCTS	UNIT PRICE	EXTENDED
38104	Aeries Software License/Support Subscription 10% increase	\$3.82	\$145,557.28
38104	Aeries Communications by PSQ	\$5.00	\$190,520.00
Year 2 Subtotal			\$336,077.28

Aeries SIS Software & Annual Subscription 7/1/2024-6/30/2025

QTY	PRODUCTS	UNIT PRICE	EXTENDED
38104	Aeries Software License/Support Subscription 10% increase	\$4.40	\$160,036.80
38104	Aeries Communications by PSQ	\$5.00	\$190,520.00
Year 3 Subtotal			\$350,556.80

*Prices provided in this document are subject to change based on changes in district enrollment year over year.

Signature: _____
Name (Print): _____

Effective Date: ____/____/____
Title: _____

THANK YOU FOR YOUR BUSINESS!

770 The City Dr. S, Suite 6500, Orange, CA 92868
Phone: 888.487.7555

Board Office Use: Legislative File Info.	
File ID Number	21-1549
Introduction Date	6/23/21
Enactment Number	21-1073
Enactment Date	6/23/2021 os



Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Preston Thomas, Chief Systems and Services Officer
Susan Beltz, Chief Technology Officer

Meeting Date June 30, 2021

Subject Approval of Resolution No. 2021-0286 Authorizing Use of *Graydon* Exception to Public Bidding; Approval by the Board of Education of Agreement for Acquisition of License for Aeries Software between Oakland Unified School District and Aeries Software, Inc.
Contractor: Aeries Software, Inc.
Services For: July 1, 2021 - June 30, 2022

Ask of the Board Approve Resolution No. 2021-0286 Authorizing Use of *Graydon* Exception to Public Bidding; Approve Agreement for Acquisition of License for Aeries Software between Oakland Unified School District and Aeries Software, Inc., Orange, CA, for the latter to provide licensing, upgrades and support for the Aeries Student Information System (SIS) and Aeries Communication (powered by ParentSquare) for the period July 1, 2021 to June 30, 2022 for an amount not to exceed \$305,027.60, consisting of \$120,027.60 for the Aeries SIS and \$185,000 for Aeries Communications.

Background The Oakland Unified School District has successfully used Aeries as its student information system (SIS) for 2020-21 and for over 10 prior school years, and has completed a successful pilot of Aeries Communications during the 2020-21 school year. Oakland Unified is using this firm going forward for the same services as previously provided. The Aeries SIS is used by Oakland Unified School District (OUSD) staff to manage student data, including attendance, master scheduling, grade reporting, discipline records, state-mandated reporting, and many other student data requirements. Aeries Communications (powered by ParentSquare) provides an integrated and streamlined communications solution. The 2020-21 renewal of the Aeries SIS and pilot of Aeries Communications was previously approved by the Board of Education as Legistar File ID #21-0764.

Discussion The Technology Services department hosts the Aeries database and application in our OUSD data centers. Upgrades are performed approximately six times per year to ensure that our Aeries version is current and supported. The Agreement for

Acquisition of License for Aeries Software with Aeries Software includes licensing, upgrades and support for the 2021-22 fiscal year. Approval of this Agreement will enable OUSD to continue using its SIS to help ensure the continued successful management of student information.

As noted above, the Oakland Unified School District also successfully piloted Aeries Communications (powered by ParentSquare) during 2020-21. Because this system integrates natively with Aeries and supports multiple modes of communications, it has the potential to replace other systems and streamline communications going forward. Approval of this Agreement will enable OUSD to continue using Aeries Communications district-wide to provide critical and timely communications to OUSD students and families.

Competitively Bid	No. See attached Resolution No. 2021-0286 - Determining and Declaring that OUSD Can Enter into Agreement for Acquisition of License for Aeries Software Without Competitive Bidding.
Fiscal Impact	\$305,027.60 from 2021-22 Funding Resource 010-0000-0-0000-7700-5846-999-9860-9994-9999-99999: General Purpose (GP), Data Processing, License Agreements, Districtwide
Attachment(s)	<ul style="list-style-type: none">● Resolution No. 2021-0286● Agreement for Acquisition of License for Aeries Software (2021-22)● Renewal Notification RN-8105● Quote No. Q-00913-2 for Aeries Communications

**RESOLUTION OF THE
BOARD OF EDUCATION
OAKLAND UNIFIED SCHOOL DISTRICT**

RESOLUTION NO. 2021-0286

**AUTHORIZING USE OF *GRAYDON* EXCEPTION TO PUBLIC BIDDING FOR
CONTRACT WITH AERIES SOFTWARE AND APPROVING AGREEMENT FOR
ACQUISITION OF LICENSE FOR AERIES SOFTWARE**

WHEREAS, the Oakland Unified School District (“District”) has a need to contract with a vendor to provide hosting, licensing, upgrades and support for the Aeries Student Information System (SIS) and Aeries Communications (powered by ParentSquare);

WHEREAS, the contemplated contract is in an amount of \$305,027.60 for 2021-22, consisting of \$120,027.60 for the Aeries SIS and \$185,000 for Aeries Communications;

WHEREAS, under Public Contracts Code section 20111, a contract in this amount would ordinarily require competitive bidding;

WHEREAS, one exception to this competitive bidding requirement is where “the nature of the subject of the contract is such that [bidding] would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible.” (*Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631, 645.)

WHEREAS, under this exception, a contract need not be bid where bidding would not serve its intended purpose--namely, to protect taxpayers from possible waste and dissipation of public funds--because it would “substantially impair[]” the public entity’s ability to operate, and/or would impose unnecessary additional costs (*Ibid.*);

WHEREAS, the District has been successfully utilizing software provided by Aeries for over 10 prior school years, and relies on the software and services to manage student data, including attendance, master scheduling, grade reporting, discipline records, state-mandated reporting, and many other student data requirements throughout the District;

WHEREAS, the District has successfully piloted Aeries Communications during the 2020-21 school year;

WHEREAS, Aeries Communications is natively integrated with the Aeries Student Information System, which is not the case for other communications platforms;

WHEREAS, the District’s original agreement with Aeries was approved by the Board of Education on July 14, 2004 as File ID 04-1141, and the contract renewal for 2020-21 was subsequently ratified by the Board of Education on April 28, 2021 as File ID 21-0764;

WHEREAS, the initial selection of Aeries was based upon a competitive-bid process (Award of Bid No. 03-04/30) with Aeries as the lowest responsible bidder;

WHEREAS, the Oakland Unified School District receives the Aeries SIS at a highly discounted rate of \$3.15 per student per year, in contrast to the retail price for the Aeries SIS of \$7.50 per student per year, the retail price for Aeries being comparable to other leading student information systems;

WHEREAS, a transition to another student information system would be a multi-year project with significant one-time costs, as evidenced by the original contract from 2004 which included a total cost not to exceed \$11,604,056.00 over five years

WHEREAS, price increases in recent years and the addition of Aeries Communications have caused the renewal price for Aeries to exceed the competitive bid threshold;

WHEREAS, it would be cost-prohibitive, and could result in time gaps in the management and reporting of student data, including the completion of mandated state reporting, to transition to another system;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board finds and declares that going out to bid for the software and services provided by Aeries Software would not produce any advantage, would result in wasted taxpayer funds, and would substantially impair the District's ability to operate because it could result in time gaps in the management and reporting of student data, including the completion of mandated state reporting
2. Competitive bidding is therefore excused under the reasoning of *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631 and related case law, allowing the District to contract directly with Aeries.
3. The Acquisition of License for Aeries Software, for the period July 1, 2021 to June 30, 2022 for an amount not to exceed \$305,027.60, consisting of \$120,027.60 for the Aeries SIS and \$185,000 for Aeries Communications, is hereby approved.

PASSED AND ADOPTED on June 30, 2021, by the Governing Board of the Oakland Unified School District by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Mike Hutchinson, Gary Yee, VanCedric Williams, Aimee Eng, Clifford Thompson, Vice President Benjamin "Sam" Davis, President Shanthi Gonzales

NOES: None

ABSTAINED: None

RECUSED: None

ABSENT: Jessica Ramos (Student Director), Samantha Pal (Student Director)

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on June 30, 2021.

Legislative File	
File ID Number:	21-1549
Introduction Date:	6/30/21
Enactment Number:	21-1073
Enactment Date:	6/23/2021
By:	os

OAKLAND UNIFIED SCHOOL DISTRICT



Shanthi Gonzales
President, Board of Education



Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education

Approved as to form by OUSD Staff Attorney Joanna Powell on 6/3/21.



**AGREEMENT FOR ACQUISITION OF LICENSE FOR AERIES
SOFTWARE BETWEEN AERIES SOFTWARE, INC.
AND OAKLAND UNIFIED SCHOOL DISTRICT**

1. Introduction.

This is an Agreement between Aeries Software, Inc. located at 770 The City Drive South, Suite 6500, Orange, California 92868 (hereinafter "AERIES SOFTWARE") and its customer Oakland Unified School District ("hereinafter "DISTRICT"), under which certain computer software is licensed on a non-exclusive basis for the customer's use for a specified term under the terms and conditions stated below and in the accompanying documents. The effective date for purposes of the interpretation of the Agreement shall be July 1, 2021.

Recitals

WHEREAS, AERIES SOFTWARE and DISTRICT previously entered into a business relationship in 2004 and DISTRICT requests to update said agreement, AERIES SOFTWARE and DISTRICT agree as follows:

2. Definitions.

The following terms, when used in this Agreement, shall have the following meanings:

- "Acceptance" shall mean the date on which AERIES SOFTWARE informs the DISTRICT and the DISTRICT confirms that the Licensed Software has been installed.
- "Agreement" shall mean this Agreement, Exhibits, and all documentation incorporated herein by reference. "Correction" or "Update" shall mean electronic media containing a Licensed Software correction or "bug fix" or a newly programmed feature intended to either rectify Licensed Software errors or cause the System to perform in a manner which conforms to the System Specifications.
- "Defect" shall mean the failure of the Licensed Software component to function in accordance with the System Specifications.
- "Documentation" shall mean all of AERIES SOFTWARE's training course materials, system specifications and technical manuals, and all other user instructions regarding the capabilities, operation, installation and use of the Licensed Software, including but not limited to manuals, handbooks, flow charts, technical information, and other reference materials relating to the Licensed Software.
- "Enhancement" or "Improvement" shall mean electronic media containing any functional or operational improvement made to the Licensed Software.

- “Equipment” shall mean the computer hardware comprising DISTRICT’s existing computer system.
- “First Productive Use” shall mean the first use of the System to process data of DISTRICT’s students in day-to-day operations.
- “Implementation” shall mean the activities such as training, data conversion and installation which are used to prepare the DISTRICT for use of the Licensed Software as provided in this Agreement.
- “Installation” shall mean the process which is used to make the Licensed Software available for DISTRICT’s use, testing, and training without regard to who performs the process.
- “Licensed Software” shall mean individually each, and collectively all, of the computer programs or Modules provided by AERIES SOFTWARE under this Agreement, including Aeries® SIS, and subsequent releases thereof, however denominated, including as to each program or Module: the processes and routines used in the processing of data, the source code and object code, tapes, disks, Documentation, Corrections, Updates, Enhancements, Improvements, Releases, and Versions to such programs or Modules as may generally be made available by AERIES SOFTWARE, and any and all programs or Modules provided by AERIES SOFTWARE in the future under this Agreement pursuant to the mutual written agreement of the parties. In addition, Aeries Software shall provide a fully integrated communications platform, known as Aeries Communications, powered by ParentSquare, which includes mass notifications (i.e., urgent alerts & “smart” alerts, auto notifications, attendance/lunch balance notifications, social share, FB, TW, web); classroom communications (i.e., posts - two-way, direct & group messaging, Student Square, Newsletter Templates, volunteering & sign-ups, parent-teacher conferences, language translation); school services (permission slips & forms, surveys & polls, calendar sync & event, RSVP, school directory); Aeries integration (single sign-on, seamless API data integration, Aeries student groups, gradebook alerts, mobile app, data reports & analytics, multi-modality, robocalls, newsletter and message templates, secure document delivery, electronic signatures, virtual IEPs, COVID health screening forms, attendance letters, support for summer learning and after school.
- “License Term” shall mean the period during which the license of the Licensed Software by AERIES SOFTWARE to DISTRICT is in effect and, for purposes of this Agreement, the License Term shall be from July 1, 2021 to June 30, 2022.
- “DISTRICT” shall include Oakland Unified School District, its officers, employees and agents, and any person or entity to which this Agreement is assigned in accordance with the terms and conditions of this Agreement.

- “Module” shall mean a self-contained unit of the Licensed Software that has its own discrete function and may be separately compiled.
- “Proprietary or Confidential Information” shall mean, with respect to a party hereto, all information or material which (i) gives that party some competitive business advantage or the opportunity of obtaining such advantage or the disclosure of which could be detrimental to the interests of that party; or (ii) which is either (A) marked “Confidential,” “Restricted,” or “Proprietary Information” or other similar marking, (B) known by the parties to be considered confidential and proprietary or (C) from all the relevant circumstances should reasonably be assumed to be confidential and proprietary. Proprietary or Confidential Information includes, but is not limited to, the System and any trade secrets related thereto, and DISTRICT’s student data, provided, however, that no information constitutes Proprietary or Confidential Information if it is generic information or otherwise publicly known or in the public domain. All information regarding any student input into Aeries® shall be considered confidential.
- “Reference Date” shall mean the earlier of the delivery of the Licensed Software to DISTRICT or the date of the DISTRICT’s purchase order or the date of this agreement or the date of the DISTRICT’s payment or the date of the official action approving acquisition of the Licensed Software by the DISTRICT’s governing board.
- “Release” shall mean the general availability of a new, modified or updated version of the Licensed Software containing an aggregation of Licensed Software Corrections or Enhancements made to the Licensed Software.
- “Source Material” shall mean the source code for the Licensed Software, including all new releases, updates, modifications, enhancements, corrections, patches, and improvements, and all Documentation and other proprietary information related to the source code.
- “System” shall mean the operation of the Licensed Software in a functionally integrated manner, with each System Component enabling Users to access and input information to, from, or between Module(s) of the Licensed Software as provided under this Agreement.
- “System Component(s)” shall mean individually each, and collectively all, of the Licensed Software.
- “System Specifications” shall mean the minimum required computer hardware required to properly operate the Licensed Software.
- “Users” shall mean any individual or entity authorized by DISTRICT to use the Licensed Software under this Agreement.

- “Version” shall mean a descriptive reference (which is typically a number qualified by a date) to new Licensed Software features packaged and delivered as a significant revision to Licensed Software.

3. Grant of Nonexclusive Software License.

AERIES SOFTWARE hereby grants to DISTRICT a non-exclusive license for a limited term as defined herein to use the Licensed Software and Documentation for its and its Users’ business activities subject to the provisions of the *Nonexclusive Software License (Exhibit “B”)*.

At no additional charge to DISTRICT and for the duration of the term of this Agreement and license, AERIES SOFTWARE shall provide DISTRICT access to all Documentation on AERIES SOFTWARE’s current Web site relating to the Licensed Software. DISTRICT may, at any time, reproduce copies of all Documentation and other materials provided by AERIES SOFTWARE, distribute such copies to its Users, and incorporate such copies into its own technical manuals, provided that such reproduction relates to DISTRICT’s use of the Licensed Software or Module(s), and copyright notices, if any, are reproduced thereon.

4. Restrictions on Grant of Software License.

The license granted by AERIES SOFTWARE to DISTRICT for use of the Licensed Software and Documentation shall be for a limited term and shall be active only on condition that DISTRICT is current on the payment of all fees set forth herein. Should DISTRICT’s financial account fall out of good standing, Aeries Software shall allow DISTRICT a 90-day grace period to bring their account current before terminating services. DISTRICT may renew and extend its license on a subscription basis by making timely payment of all outstanding license fees to AERIES SOFTWARE. Failure to do so shall result in termination of the license without further notice.

DISTRICT shall not actually nor attempt to disassemble, decompile, or reverse engineer modify, copy, duplicate, reproduce, license or sublicense the Software, or transfer or convey the Software or any right in the Software to anyone else without the prior written consent of AERIES SOFTWARE. DISTRICT may maintain copies of all data and information generated by DISTRICT in connection with use of the Licensed Software. DISTRICT shall not be authorized to make the Licensed Software available for use to any person or entity that has no substantive affiliation or relationship with DISTRICT’s business.

DISTRICT may develop, install, and make operational DISTRICT Custom Programming, but DISTRICT shall be solely responsible for such programming and shall be the sole owner of such code modifications. DISTRICT shall have the right to acquire from AERIES SOFTWARE any subsequent Release or Version of the Licensed Software produced by AERIES SOFTWARE as an update to the Licensed Software during the term of the license, at no cost to DISTRICT, on condition that DISTRICT has paid all licensing fees due AERIES SOFTWARE.

5. System Configuration.

AERIES SOFTWARE shall provide documentation of AERIES SOFTWARE's minimum and recommended hardware requirements and may assist the DISTRICT in evaluating the DISTRICT's existing information systems, computer platform(s), operating system(s), applications, network connectivity, and workstation configurations (hereinafter collectively referred to as the "Existing System"). The DISTRICT is responsible for ensuring that its Existing System is sufficient in size, capacity, and processing capability to operate the Licensed Software for the use of DISTRICT and its Users. Nothing in this agreement shall require AERIES SOFTWARE to pay for any necessary hardware or third party software upgrades or third party services that DISTRICT may employ to enhance Existing System.

The parties expressly acknowledge that AERIES SOFTWARE is not providing any equipment or software other than the Licensed Software under this Agreement. Further, DISTRICT expressly represents and AERIES SOFTWARE is relying upon the representation that the Existing System consists of the DISTRICT computer platform(s), operating system(s), scanners, printers, applications, network connectivity (local and wide area networks), and workstations. The DISTRICT's Existing System operates on computers with access to modern web browsers that are kept up-to-date, including devices such as Chromebooks. The DISTRICT is responsible for ensuring that its Existing System is sufficient in size, capacity, and processing capability to operate the Licensed Software for the use of DISTRICT and its Users.

6. Payment of Software Licensing Fee and Related Fees.

(a) Software License/Support Subscription Fee.

In consideration of the subscription use license granted under this Agreement, as well as the maintenance and support provided by AERIES SOFTWARE relative to said license and Hosting Services, DISTRICT shall pay AERIES SOFTWARE the sum of \$3.15 per student based on prior year's Calpads Enrollment (38,104) for a total of \$120,027.60 as indicated in the attached Invoice RN-8105. As indicated elsewhere herein, said license, maintenance, and support shall be provided for the License Term only, unless extended by agreement and payment of additional subscription fees.

On condition that DISTRICT has been in compliance with the terms and conditions of this Agreement for the duration of the preceding License Term, the license, including maintenance and support services provided by AERIES SOFTWARE, may be extended by DISTRICT's payment to AERIES SOFTWARE of the then current AERIES SOFTWARE annual licensing fee for the Aeries® software within thirty (30) days following expiration of the preceding license period. However, auto-renewals will not be allowed for more than five (5) years. Said license, support, and maintenance may be renewed annually thereafter by subsequent payments on a subscription basis subject to approval by AERIES SOFTWARE.

(b) Related Fees.

In addition to the licensing fee, DISTRICT shall pay related fees as follows:

- (i) **Aeries Communications powered by ParentSquare.** In addition to the payment of the License Fee, DISTRICT shall pay AERIES SOFTWARE, the sum of \$5.00 per student based on based on prior year's Calpads Enrollment (38,104) for a total of \$190,520.00 as indicated in the attached Sales Quote Q-00913-2 for the use and support of the Aeries Communications product.
- (ii) **Other Services.** At a future date, DISTRICT may negotiate a schedule for additional services (i.e., customized programming, additional data conversion, etc.) beyond those described in the *Sales Proposal (Exhibit "A")* based upon AERIES SOFTWARE's fee for any requested services at the time of the request and the availability of AERIES SOFTWARE's Staff. Additional services require written amendment to this agreement.

7. Maintenance and Support.

During the operative term of this Agreement, at no additional cost, AERIES SOFTWARE shall correct any failure of the Licensed Software or any Module, to perform in accordance with the System Specifications, including without limitation, defect repair, programming corrections, and remedial programming, and provide such services and repairs required to maintain the Licensed Software so that it operates properly and in accordance with the System Specifications.

Further, AERIES SOFTWARE shall provide support as follows:

(a) All requests for support shall be made during normal business hours (7:30 a.m. to 4:30 p.m. Pacific Time, Monday through Friday, other than legal holidays and days designated by AERIES SOFTWARE as non-workdays). A complete list of legal holidays and days designated by AERIES SOFTWARE as non-workdays is posted on AERIES SOFTWARE's Web site. No further notice will be provided.

(b) During the term of this Agreement, AERIES SOFTWARE shall make available to DISTRICT via the AERIES SOFTWARE Website Corrections, Updates, Enhancements, Improvements, and Releases to the Licensed Software, as they are made generally available to other AERIES SOFTWARE clients.

(c) Charges to DISTRICT for maintenance and support for the initial term as of this Agreement are indicated in the *Sales Proposal (Exhibit "A")*. Thereafter, the maintenance and support fees shall be calculated as set forth in Section 8 (Payment) above.

(d) Notwithstanding the provisions of this Section, AERIES SOFTWARE may terminate support with regard to the Licensed Software upon thirty (30) days written notice if (i) DISTRICT fails to remain within at least ninety (90) calendar days of AERIES

SOFTWARE's most then-current production release of the Licensed Software and the failure to remain within ninety (90) calendar days of AERIES SOFTWARE's most then-current production release of the Licensed Software is not disputed by DISTRICT, or (ii) DISTRICT fails to pay undisputed invoices for support.

(e) Notwithstanding the provisions of this Section, AERIES SOFTWARE may terminate support with regard to the Licensed Software upon thirty (30) days written notice if DISTRICT fails or refuses to (i) fully cooperate with AERIES SOFTWARE, (ii) act in reasonable accordance with AERIES SOFTWARE's requests and requirements, (iii) respond in a reasonable time and manner to AERIES SOFTWARE's written notice or inquiry, or (iv) otherwise act in good faith in furtherance of the material terms and conditions of this Agreement.

(f) AERIES SOFTWARE is aware that the DISTRICT is obligated to know, understand, and comply with various State and Federal statutes, programs, and protocols, including but not limited to the California Longitudinal Pupil Achievement Data System (CALPADS) and the California state reporting requirements for Local Education Agencies (LEA), and, while AERIES SOFTWARE does not receive direct communication from all State and Federal agencies about all said requirements, AERIES SOFTWARE is committed to taking reasonable steps and using its best efforts to assist DISTRICT in complying therewith based upon information as it is provided to AERIES SOFTWARE by its customers.

8. Ownership and Non-Disclosure of Proprietary or Confidential Information

AERIES SOFTWARE's treatment of DISTRICT's student data is governed by the attached Student Data Privacy Addendum, executed concurrently herewith. To the extent that any terms of this Agreement conflict with the Student Data Privacy Addendum, the Student Data Privacy Addendum shall govern.

The parties agree, both during the term of this Agreement and for a period of five (5) years after termination of this Agreement to hold each other's Proprietary or Confidential Information in strict confidence, except for DISTRICT's student data which shall be held in such confidence in perpetuity. The parties agree not to make each other's Proprietary or Confidential Information available in any form to any third party or to use each other's Proprietary or Confidential Information for any purpose other than the implementation of and as specified in this Agreement. Each party agrees to take all reasonable steps to ensure that Proprietary or Confidential Information of either party is not disclosed or distributed by its employees, agents or consultants in violation of the provisions of this Agreement, and DISTRICT also agrees to take all such steps with respect to any Users of the System.

AERIES SOFTWARE's Proprietary or Confidential Information shall remain the sole and exclusive property of AERIES SOFTWARE. DISTRICT's Proprietary or Confidential Information shall remain the sole and exclusive property of DISTRICT. DISTRICT shall have no interest in, and no right to use, including, without limitation, any use resulting in disclosure to any third party any AERIES SOFTWARE Proprietary or

Confidential Information except as specifically provided for by this Agreement or as otherwise permitted and specified by separate written license agreement executed by both parties hereto.

Each party shall ensure that its employees, agents and consultants, and in the case of DISTRICT's granting access to the System, its Users, as described in Section 2, shall be permitted access to the other party's Proprietary or Confidential Information only on a need-to-know basis and are instructed regarding, and agree in writing to act in accordance with, the obligations of nondisclosure and non-use imposed by this Agreement.

Each party acknowledges that any use or disclosure of the other party's Proprietary or Confidential Information other than as specifically provided for in this Agreement and other written agreements between AERIES SOFTWARE and DISTRICT may result in irreparable injury and damage to the non-using or non-disclosing party. Accordingly, each party hereby agrees that, in the event of use or disclosure by the other party other than as specifically provided for in this Agreement and in other written agreements between the parties, the non-using or non-disclosing party may be entitled to equitable relief as granted by any appropriate judicial body.

Each party expressly agrees to include, maintain, reproduce and perpetuate all notices or markings on all copies of all tangible media comprising each party's Proprietary or Confidential Information in the manner in which such notices or markings appear on such tangible media or in the manner in which either party may reasonably request.

AERIES SOFTWARE acknowledges and agrees that all student records shall be subject to the confidentiality and disclosure provisions of federal and state law and agrees to maintain the confidentiality of all such records in accordance with such laws. AERIES SOFTWARE's treatment of DISTRICT's student data is governed by the attached Student Data Privacy Addendum, executed concurrently herewith. To the extent that any terms of this Agreement conflict with the Student Data Privacy Addendum, the Student Data Privacy Addendum shall govern.

All of the DISTRICT data, records, and information processed by or input onto the System to which AERIES SOFTWARE has access, or otherwise provided to AERIES SOFTWARE under this Agreement shall be and remain the property of DISTRICT and DISTRICT shall retain exclusive rights and ownership thereto. The data of DISTRICT shall not be used by AERIES SOFTWARE for any purpose other than as required under this Agreement, nor shall such data or any part of such data be disclosed, sold, assigned, leased or otherwise disposed of to third parties by AERIES SOFTWARE or commercially exploited or otherwise used by or on behalf of AERIES SOFTWARE, its officers, directors, employees, or agents.

AERIES SOFTWARE shall provide, at no charge to DISTRICT, sufficient access control applications to enable DISTRICT to identify and authenticate Users and control access to System Modules.

9. AERIES SOFTWARE's Representations, Warranties and Covenants

Warranty of Title. AERIES SOFTWARE hereby represents and warrants to DISTRICT that AERIES SOFTWARE is the owner of the Software or otherwise has the right to grant to DISTRICT the rights set forth in this Agreement.

Warranty of Functionality. For a period encompassing the term of this Agreement, AERIES SOFTWARE represents, warrants and agrees that the Licensed Software shall perform in all material respects according to AERIES SOFTWARE's specifications concerning the Licensed Software when used with the appropriate computer equipment.

Warranty of Response Time. AERIES SOFTWARE represents and warrants that the response time for the Licensed Software shall be normal for commercial software. As with any browser-based software, the speed is completely dependent on the speed of the workstation computer, the quantity and type of other software that may be running on any individual workstation, the quality and speed of the internet connection of the computer, and the speed of the computer.

Exclusive Remedy. In the event of any breach or threatened breach of the foregoing representation and warranty, DISTRICT's sole remedy shall be to require AERIES SOFTWARE to either: (i) procure, at AERIES SOFTWARE's expense, the right to use the Software, (ii) replace the Software or any part thereof that is in breach and replace it with Software of comparable functionality that does not cause any breach, or (iii) refund to DISTRICT the full amount of the license fee upon the return of the Software and all copies thereof to AERIES SOFTWARE. In the event of any breach or alleged breach of these warranties, DISTRICT shall promptly notify AERIES SOFTWARE thereof and provide AERIES SOFTWARE a reasonable opportunity to repair or replace the Licensed Software, at AERIES SOFTWARE's sole election. These warranties shall not apply to the Licensed Software if modified or if used improperly or on an operating system not approved by AERIES SOFTWARE.

Warranty Disclaimer. AERIES SOFTWARE DISCLAIMS AND DISTRICT SPECIFICALLY ACKNOWLEDGES THAT AERIES SOFTWARE DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, WITH RESPECT TO THE PROGRAM AND THE ACCOMPANYING WRITTEN MATERIALS. AERIES SOFTWARE WILL NOT BE LIABLE FOR LOST PROFITS, LOST OPPORTUNITIES, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCES.

10. Overall Limitation of Liability and Damages

IN NO CASE SHALL AERIES SOFTWARE BE RESPONSIBLE FOR NOR SHALL THE AGGREGATE AMOUNT OF DAMAGES PAYABLE TO DISTRICT FROM ANY AND ALL PARTIES FOR ANY CLAIM ARISING FROM THE LICENSED

SOFTWARE OR THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ITS WARRANTY AND INDEMNIFICATION PROVISIONS) EXCEED THE AMOUNTS PAID BY DISTRICT TO AERIES SOFTWARE UNDER THIS AGREEMENT.

11. Termination.

This Agreement and the associated Software License shall expire according to the limited term set forth hereinabove in Section 3 unless the Agreement is renewed for an additional term as set forth in Section 6. In addition to any other provision in this Agreement allowing a party to terminate this Agreement in whole or in part, and without limiting any other remedies available at law, in equity, or under this Agreement, if either party materially or repeatedly defaults in the performance of any of its duties or obligations under this Agreement, and: (1) within thirty (30) days after written notice is given to the defaulting party specifying the default, it is not cured to the reasonable satisfaction of the party giving the notice of default, or (2) with respect to those defaults that cannot reasonably be cured within thirty (30) days, if the defaulting party fails to commence curing the default within fifteen (15) days after receipt of the notice of default, and to continue proceeding with all due diligence to cure the default, then the party not in default may terminate this Agreement by giving written notice of termination to the defaulting party, which termination shall be effective immediately upon receipt of the notice of termination. If the default is incapable of being cured, then the thirty (30) day cure period shall not apply, and notice of termination may be given directly by the party not in default. If termination of this Agreement for any reason results in the DISTRICT's need for services from AERIES SOFTWARE of any type, AERIES SOFTWARE shall be paid at its then current rates for such services.

12. Assignment.

This Agreement shall not be assigned by either party without the prior written consent of the other except as follows:

AERIES SOFTWARE may assign this Agreement provided such assignment (i) is in writing and in a form reasonably acceptable to DISTRICT, (ii) states that the assignee is accepting all obligations of AERIES SOFTWARE under this Agreement and agrees to be bound by and discharge the Agreement's terms, conditions, and obligations as if it were the original party hereto, and (iii) AERIES SOFTWARE, the assignee entity, or both agree in writing to support the Licensed Software throughout the term of this Agreement.

DISTRICT may assign this Agreement to a parent or subsidiary entity, or any corporation or entity in which DISTRICT has an ownership interest, or in the event of merger, consolidation or other disposition of substantially all of its assets, between DISTRICT and a third party(ies), provided such assignment (i) is in writing and (ii) states that the assignee is accepting all obligations of DISTRICT under this Agreement and agrees to be bound by and discharge each of the Agreement's terms, conditions, and obligations as if it were the original party hereto.

13. General Provisions

Modification. The terms and conditions of the Agreement may not be altered, amended, or modified unless set forth in writing and the writing has been signed by AERIES SOFTWARE and DISTRICT.

Waiver. All waivers under this Agreement shall be in writing in order to be effective. No waiver by a party of any breach of this Agreement or waiver of any warranty, representation, or other provision hereunder shall be deemed to be a waiver of any other breach, warranty, representation, or provision (whether preceding or succeeding, and whether or not of the same or similar nature), and no acceptance of performance by a party after any breach by the other party shall be deemed to be a waiver of any breach of this Agreement or of any representation, warranty, or other provision, whether or not the party accepting performance knows of such breach at the time of acceptance. No failure or delay by a party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right of the non-defaulting party under this Agreement.

Independent Contractor. AERIES SOFTWARE acknowledges that it is at all times acting as an independent contractor under this Agreement and except as specifically provided herein, not as an agent, employee, or partner of DISTRICT. AERIES SOFTWARE agrees to be solely responsible for all matters relating to compensation of its employees, including but not limited to compliance with laws governing workers' compensation, Social Security, withholding and payment of any and all federal, state and local personal income taxes, disability insurance, unemployment, and any other taxes for such persons, including any related employer assessment or contributions required by law, and all other regulations governing such matters, and the payment of all salary, vacation and other employee benefits. At AERIES SOFTWARE's expense as described herein, AERIES SOFTWARE agrees to defend, indemnify, and hold harmless DISTRICT, its officers, agents, employees, members, subsidiaries, joint venture partners, and predecessors and successors in interest from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees as provided herein arising out of AERIES SOFTWARE's alleged failure to pay, when due, all such taxes and obligations (collectively referred to for purposes of this Section as "Employment Claim(s)"). AERIES SOFTWARE shall pay to DISTRICT any expenses or charges relating to or arising from any such Employment Claim(s) as they are incurred by DISTRICT.

Interpretation of Agreement. In the event of any conflict or inconsistency in the interpretation of this Agreement (including its Exhibits), such conflict or inconsistency shall be resolved by giving precedence first to the body of this Agreement, and then to the Exhibits.

Choice of Law. This Agreement shall be construed under and in accordance with the laws of the State of California.

Venue. The parties expressly agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a party elects to file an action in federal court) courts located in the County of Orange, State of California. This choice of venue is intended by the parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this Section. Each party waives any right it may have to assert the doctrine of *forum non conveniens* or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this Section.

Agreement Drafted by All Parties. This Agreement is the result of arm's length negotiations between the parties and shall be construed to have been drafted by all parties such that any ambiguities in this Agreement shall not be construed against either party.

Terminology. All personal pronouns used herein, whether used in the feminine, masculine, or neuter gender, shall include all other genders, and the singular shall include the plural and *vice versa*.

Section Headings. The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the Reference Date at such time as all the signatories hereto have signed a counterpart of this Agreement.

Notices. Any notices required or permitted to be given hereunder by either party to the other shall be given in writing: (1) by electronic facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (2) by bonded courier or by a nationally recognized overnight delivery company; or (3) by United States first class registered or certified mail, postage prepaid, return receipt requested, in each case, addressed to the parties as follows (or to such other addresses as the parties may request in writing by notice given pursuant to this section):

TO: DISTRICT @

Oakland Unified School District
C/O Technology Department
900 High St.
Oakland, CA 94601
Fax Number: (510) 879-4282

TO: AERIES SOFTWARE @

Aeries Software, Inc.
770 The City Drive South, Suite 6500
Orange, California 92868
Fax: (657) 202-3339

and to

David Christopher Baker
Law Office of David Christopher Baker
3 Park Plaza, Suite 1520
Irvine, California 92614
dbaker@iplawyeresq.com

Notice shall be deemed received on the earliest, upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed, twenty-four (24) hours following deposit with a bonded courier or overnight delivery company; or seventy-two (72) hours following deposit in the U.S. Mail as required herein.

Entire Agreement. This Agreement contains the entire agreement between AERIES SOFTWARE and DISTRICT with respect to the subject matter of this Agreement, and it supersedes all other prior and contemporary agreements, understandings, and commitments between AERIES SOFTWARE and DISTRICT with respect to the subject matter of this Agreement.

Severability. If any provision of this Agreement is found to be invalid or unenforceable by any court, such provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions hereof.

Mediation of Disputes. AERIES SOFTWARE and DISTRICT agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action. Mediation fees, if any, shall be divided equally among the parties involved. If any party commences an action based on a dispute or claim to which this paragraph applies, without first attempting to resolve the matter through mediation, then that party shall not be entitled to recover attorney's fees, even if they would otherwise be available to that party in any such action.

Attorneys' Fees. Except as provided herein, should either party to this Agreement institute any action or proceeding, to enforce this Agreement or any provision hereof, or for damages by reason of any alleged breach of this Agreement, otherwise arising under this Agreement, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the

other party all costs and expenses, including without limitation reasonable attorney's fees, incurred by the prevailing party in such arbitration, action or proceeding.

Promotions. The parties agree that AERIES SOFTWARE may use DISTRICT as a reference for all clients and potential clients.

IN WITNESS WHEREOF, DISTRICT hereby accepts the terms and conditions as set forth above and in the attached exhibits hereto,

DATE: 6/24/2021

DISTRICT

Kyla Johnson-Trammell
Kyla Johnson-Trammell, Secretary,
BOE

By: [Signature]

Approved as to form by OUSD Staff
Attorney Joanna Powell on 6/2/21

Title: President, BOE

AERIES SOFTWARE hereby accepts the terms and conditions as set forth above and in the attached exhibits hereto,

DATE: 06/02/21

AERIES SOFTWARE

By: [Signature]

Title: Executive Director of Operations

EXHIBIT B - Nonexclusive Software License

Pursuant to the terms and conditions of the Software License Agreement, this is a License between Aeries Software, Inc., 770 The City Drive South, Suite 6500, Orange, California 92868 (hereinafter "AERIES SOFTWARE") and the Oakland Unified School District (hereinafter "DISTRICT"). This License states the terms and conditions upon which AERIES SOFTWARE offers to license its software and the License is expressly conditioned upon DISTRICT's acceptance thereof. The Licensed Software shall include source as well as machine-readable code and documentation (together "Software").

DISTRICT assumes full responsibility for the selection of the Software to achieve DISTRICT's intended results, and for the installation, use and results obtained from the Software.

BY SIGNING THIS AGREEMENT, DISTRICT IS AGREEING TO BECOME BOUND BY THE TERMS OF THIS LICENSE. IF DISTRICT DOES NOT AGREE TO THE TERMS OF THIS LICENSE, DISTRICT SHALL NOT USE THE SOFTWARE AND, WITHIN 15 DAYS, DISTRICT SHALL RETURN THE SOFTWARE AND ALL RELATED MATERIALS TO THE ENTITY FROM WHOM DISTRICT PURCHASED THE SOFTWARE, WITH ALL ITS CONTENTS, FOR A FULL REFUND.

LICENSE:

1. All Software enclosed is licensed, not sold, to DISTRICT on a non-exclusive basis for use only under the terms of this License, and AERIES SOFTWARE reserves all rights not expressly granted to DISTRICT. DISTRICT owns the disk or other media on which the Software is originally or subsequently recorded or fixed, but AERIES SOFTWARE retains all title and ownership of its respective Software and related documentation.
2. DISTRICT and DISTRICT's employees and agents are required to protect the confidentiality of the Software. DISTRICT may not distribute or otherwise make the Software available to any third party. Notwithstanding this paragraph, DISTRICT may provide access to the Software and DISTRICT's information stored with it to the extent necessary to comply with the California Public Records Act and to the extent required by law.
3. DISTRICT may not copy or reproduce the Software for any purpose except to make one (1) archival copy of the Software, for backup purposes only, in support of DISTRICT's use of the Software. DISTRICT must reproduce and include AERIES SOFTWARE's copyright notice on the backup copy of the Software.
4. Any portion of the Software merged into or used in conjunction with another software will continue to be the property of AERIES SOFTWARE and subject to the terms and conditions of this License. DISTRICT must reproduce and include AERIES SOFTWARE's copyright notice on any portion merged in or used in conjunction with another software.

5. DISTRICT may not sublicense, assign or otherwise transfer the Software or this license to any other person without the prior written consent of AERIES SOFTWARE. AERIES SOFTWARE retains the right to require additional licenses for any portions of its code that are copied whether or not merged with any other code.

6. DISTRICT acknowledges that DISTRICT is receiving, on a LIMITED LICENSE TO USE, the Software and that AERIES SOFTWARE retains all right, title and interest in and to the Software. DISTRICT acknowledges that AERIES SOFTWARE has valuable proprietary interests in its Software. DISTRICT may not use, copy, modify, or transfer the Software or any copy, modification or merged portion in whole or in part except as expressly provided for in this License. If DISTRICT transfers possession of any copy modification or merged portion of the Software to another party, DISTRICT's license is automatically terminated.

7. DISTRICT agrees to indemnify and hold harmless AERIES SOFTWARE from any action or liability resulting from DISTRICT's use of the Software, except to the extent that AERIES SOFTWARE shall indemnify and hold DISTRICT harmless in accordance with the Agreement.

TERMINATION. The License granted to DISTRICT is effective until terminated. DISTRICT may terminate it at any time by returning the Software to AERIES SOFTWARE together with all copies, modifications, and merged portions in any form. The License will also terminate upon conditions set forth elsewhere in the "Software License Agreement for Acquisition of License for Aeries® Software" or if DISTRICT fails to comply with any term or condition of this License. DISTRICT agrees upon such termination to return the Software to AERIES SOFTWARE. The portions of this License that protect the proprietary rights of AERIES SOFTWARE will continue in force after termination of the License. AERIES SOFTWARE shall have no right to terminate this License, except in the event of a material violation by DISTRICT of the terms and conditions of this License, and after first giving reasonable written notice to DISTRICT of the violation and providing DISTRICT with a reasonable opportunity to cure the violation. In the event AERIES SOFTWARE fails to provide such notice and opportunity to cure, the paragraph hereof-entitled "Limitation of Remedies and Damages" shall not apply to such termination.

LIMITED WARRANTY. AERIES SOFTWARE warrants, as the sole warranty, that the software will perform substantially in accordance with the accompanying documentation for a period of ninety (90) days from the date of receipt, except as provided in the "Software License Agreement for Acquisition of License for Aeries® Software". No other entity or person is authorized to expand or alter this warranty or this License. AERIES SOFTWARE does not warrant that the functions contained in the Software will completely meet DISTRICT's requirements or that the operation of the Software will be uninterrupted or error-free. Except as stated above in this section, the Software is provided as-is without warranty of any kind, either expressed or implied, including the implied warranties of merchantability and fitness for a particular purpose. DISTRICT assumes the entire risk as it applies to the quality and performance of the Software. This warranty gives DISTRICT specific legal rights and DISTRICT may also have other

rights that vary from country or state. Some countries and states do not allow the exclusion or limitation of implied warranties, so this exclusion may not apply to DISTRICT.

LIMITATION OF REMEDIES AND DAMAGES – WAIVER AND RELEASE OF LIABILITY FOR CONSEQUENTIAL DAMAGES. To the maximum extent permitted by applicable law, in no event shall AERIES SOFTWARE be liable for any damages whatsoever (including without limitation, special, incidental, consequential, or indirect damages for personal injury, loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use this product, even if AERIES SOFTWARE has been advised of the possibility of damages, except as provided under the “Agreement for Acquisition of Aeries® Software”. AERIES SOFTWARE’s entire liability and DISTRICT’s exclusive remedy shall be limited to the following:

1. The replacement of any software not meeting AERIES SOFTWARE’s “Limited Warranty” explained above, or
2. If AERIES SOFTWARE is unable to deliver replacement software that conforms to the warranty provided under this Agreement, DISTRICT may terminate this Agreement by returning the Software to the respective Company, authorized Company distributor or dealer from whom DISTRICT obtained the program and DISTRICT license fee will be refunded.

In no event will AERIES SOFTWARE be liable for damages to DISTRICT or any other entity in excess of the amount of the license fee paid by DISTRICT to use the Software regardless of the form of the claim. Any action brought under this License must be brought within six (6) months from the time the action accrues.

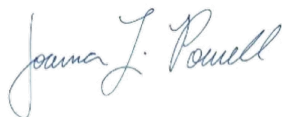
AERIES SOFTWARE and DISTRICT expressly acknowledge and agree that the instant Nonexclusive Software License is not binding upon either party unless and until both AERIES SOFTWARE and DISTRICT have agreed in writing to the terms and conditions set forth in the separate Software License Agreement.

[SIGNATURE BLOCKS FOLLOW ON NEXT PAGE]


DISTRICT hereby accepts the terms and conditions as set forth above.

DATE: 6/24/2021


Approved as to form by OUSD Staff
Attorney Joanna Powell on 6/2/21.



DISTRICT



Kyla Johnson-Trammell,
Secretary, BOE

By: _____

Title: President, BOE

AERIES SOFTWARE hereby accepts the terms and conditions as set forth above.

DATE: 06/02/21

AERIES SOFTWARE

By: _____

Title: Executive Director of Operations

Attachment A – STUDENT DATA PRIVACY ADDENDUM FOR CALIFORNIA ASSEMBLY BILL 1584 COMPLIANCE

This Agreement is entered into between the Oakland Unified School District ("DISTRICT") and AERIES SOFTWARE, Inc. ("AERIES SOFTWARE") on July 1, 2021 ("Effective Date").

WHEREAS, the DISTRICT and AERIES SOFTWARE entered into an agreement for technology services titled AERIES SOFTWARE License Agreement ("Technology Services Agreement") on July 1, 2021.

WHEREAS, the DISTRICT is a California public entity subject to all state and federal laws governing education, including but not limited to California Assembly Bill 1584 ("AB 1584"), the California Education Code, the Children's Online Privacy and Protection Act ("COPPA"), and the Family Educational Rights and Privacy Act ("FERPA");

WHEREAS, AB 1584 requires, in part, that any agreement entered into, renewed or amended after January 1, 2015 between a local education agency and a third-party must include certain terms; and

WHEREAS, the DISTRICT and the AERIES SOFTWARE desire to have the Technology Services Agreement and the services provided comply with AB 1584.

NOW, THEREFORE, the Parties agree as follows:

1. The terms and conditions of the License Agreement and any addenda are incorporated herein by reference.
2. The term of this Addendum shall expire on the termination date stated in the Technology Services Agreement or in any addenda to such Technology Services Agreement, whichever controls.
3. Pupil records¹ obtained by AERIES SOFTWARE from DISTRICT continue to be the property of and under the control of the DISTRICT.

¹ Pupil records include any information directly related to a pupil that is maintained by the LEA or acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other LEA employees. Pupil records does not include de-identified information (information that cannot be used to identify an individual pupil) used by the third party to (1) improve educational products for adaptive learning purposes and for customized pupil learning; De-identified information, including aggregated de-identified information, (2) demonstrate the effectiveness of the operator's products in the marketing of those products; or for the development and improvement of educational sites, services, or applications.

4. The procedures by which pupils may retain possession and control of their own pupil-generated content are outlined as follows:

AERIES SOFTWARE provides the software solution by which DISTRICT retains and updates pupil information. AERIES SOFTWARE hosts this data in its own data centers, but AERIES SOFTWARE will not have any ownership or collection of any pupil information, except for temporary instances whereby AERIES SOFTWARE is providing technical support and resolution assistance when requested by DISTRICT. DISTRICT shall be solely responsible for determining the procedures by which pupils may retain possession and control of their own pupil-generated content. DISTRICT may utilize the provided software solution to revise or delete data as necessary.

5. The options by which a pupil may transfer pupil-generated content to a personal account include:

DISTRICT shall be solely responsible for determining the options by which a pupil may transfer pupil-generated content to a personal account. DISTRICT may utilize the provided software solution to revise, delete, or transfer data as required.

6. Parents, legal guardians, or eligible pupils may review personally identifiable information in the pupil's records and correct erroneous information by the following protocol:

DISTRICT shall be solely responsible for offering parents, legal guardians, or eligible pupils the ability to review personally identifiable information in the pupil's records and correct erroneous information. AERIES SOFTWARE provides a portal for parents, legal guardians, and pupils that includes a process to update information that DISTRICT may choose to utilize to accomplish this process.

7. Service Provider shall take actions to ensure the security and confidentiality of pupil records, including but not limited to designating and training responsible individuals on ensuring the security and confidentiality of pupil records, by the following measures:

AERIES SOFTWARE shall conduct annual training seminars for all its responsible agents to review all student privacy laws and AERIES SOFTWARE practices to ensure the security and confidentiality of pupil records.

8. In the event of an unauthorized disclosure of a pupil's records, Service Provider shall report to an affected parent, legal guardian, or eligible pupil pursuant to the following procedure:

DISTRICT shall be solely responsible for reporting to parent, legal guardians, or eligible pupil in the event of an unauthorized disclosure of a pupil's records. If AERIES SOFTWARE discovers that the records were disclosed through its own faults or a flaw in its system, AERIES SOFTWARE shall notify DISTRICT immediately, and optionally notify the affected parties through a message in the software portal.

9. Service Provider shall not use any information in a pupil record for any purpose other than those required or specifically permitted by the Technology Services Agreement.
10. Service Provider certifies that a pupil's records shall not be retained or available to the Service Provider upon completion of the terms of the Technology Services Agreement, except for a case where a pupil chooses to establish or maintain an account with Service Provider for the purpose of storing pupil-generated content, either by retaining possession and control of their own pupil-generated content, or by transferring pupil-generated content to a personal account. Such certification will be enforced through the following procedure:

If DISTRICT decides to no longer continue a business relationship with AERIES SOFTWARE, AERIES SOFTWARE shall offer the DISTRICT the ability to take a local copy of their student information system data and thereafter delete all DISTRICT data from AERIES SOFTWARE's data centers.

11. LEA agrees to work with Service Provider to ensure compliance with FERPA and the Parties will ensure compliance through the following procedure:

AERIES SOFTWARE has reviewed FERPA requirements and deemed that its software possesses the ability to meet all requirements through recommended data practices. AERIES SOFTWARE offers training on its software to ensure DISTRICT utilizes the software as recommended to ensure compliance with FERPA and other student privacy laws. AERIES SOFTWARE is currently working with a third party organization to audit its software and policies on FERPA.

IN WITNESS WHEREOF, parties execute this Agreement on the dates set forth below.

DISTRICT



Authorized Signature

Shanthi Gonzales, President, BOE

Printed Name and Title

6/24/2021

Date




Kyla Johnson-Trammell, Secretary, BOE

Approved as to form by OUSD Staff
Attorney Joanna Powell on 6/2/21.



Aeries Software, Inc.



Authorized Signature

Jonathan Cotton, Executive Director

Printed Name and Title

06/02/21

Date

California AB 1584 Compliance Checklist for School District Technology Services Agreements

Technology services agreements entered into, amended, or renewed by a local education agency on or after January 1, 2015 must include specific requirements. These requirements apply to contracts for services that utilize electronic technology, including cloud-based services, for the digital storage, management and retrieval of pupil records, as well as educational software that authorizes a third-party provider to access, store and use pupil records. All of the following requirements must be included in such contracts:

- ☒ A statement that pupil records continue to be the property of and under the control of the school DISTRICT;
- ☒ A description of the means by which pupils may retain possession and control of their own pupil-generated content, if applicable, including options by which a pupil may transfer pupil-generated content to a personal account;
- ☒ A prohibition against the third party using any information in the pupil record for any purpose other than those required or specifically permitted by the contract;
- ☒ A description of the procedures by which a parent, legal guardian, or eligible pupil may review personally identifiable information in the pupil's records and correct erroneous information;
- ☒ A description of the actions the third party will take—including the designation and training of responsible individuals—to ensure the security and confidentiality of pupil records;
- ☒ A description of the procedures for notifying the affected parent, legal guardian, or eligible pupil in the event of an unauthorized disclosure of the pupil's records;
- ☒ A certification that a pupil's records shall not be retained or available to the third party upon completion of the terms of the contract and a description of how that certification will be enforced (NOTE: This requirement does not apply to pupil-generated content if the pupil chooses to establish or maintain an account with the third party for the purpose of storing that content, either by retaining possession and control of their own pupil-generated content, or by transferring pupil-generated content to a personal account.);
- ☒ A description of how the DISTRICT and the third party will jointly ensure compliance with the federal Family Educational Rights and Privacy Act; and
- ☒ A prohibition against the third party using personally identifiable information in pupil records to engage in targeted advertising.

References: AB 1584; Cal. Educ. Code § 49073.1; 20 U.S.C. § 1232g



PLEASE REMIT TO:
Aeries Software
770 The City Dr. S.
Suite 6500
Orange, CA 92868

Renewal Notification RN-8105
DATE 05/01/2021
TERMS
P.O. NO.

BILL TO Oakland Unified School District
900 High St.
Attn: Accounts Payable
Oakland, CA 94601

This is a notification of your upcoming renewal. It is not due at this time, but because of budgetary issues, we wanted you to have it early in order to prepare for payment. If you have any questions, please contact Connie Castillo at conniec@aeries.com or 888-487-7555.

Message:

Quantity	Description	Unit Price	Start Date	End Date	Total Amount
38104	Software License/Support Subscription	3.15	07/01/2021	06/30/2022	\$120,027.60

SUBTOTAL 120,027.60

TOTAL 120,027.60

AMOUNT RECEIVED \$

AMOUNT DUE \$



Aeries Software, Inc.

A solution where data empowers, never impedes.

PREPARED BY
Brandon Cruz
brandonc@aeries.com

Quote #: Q-00913-2
Date: 5/12/2021 8:35 AM
Expires On: 7/31/2021

District: Oakland Unified School District
Contact: Susan Beltz
Email: susan.beltz@ousd.k12.ca.us
Phone: (510) 879-8873
Address: 900 High St.
Oakland, CA 94601

Pricing provided has been prepared for the following term 7/1/2021 - 6/30/2022

Additional Products & Services

QTY	PRODUCTS	DESCRIPTION	UNIT PRICE	EXTENDED
37,000	Aeries Communications	Fully integrated Communications Platform. Includes: Mass Notifications - Urgent Alerts & "Smart" Alerts, AutoNotices, Attendance / Lunch Balance Notifications, Social Share; Classroom Communications Posts - Two-Way, Direct & Group Messaging, StudentSquare, Parent-Teacher Conferences, Volunteer Signups, Newsletter Templates; School Services - Permission Slips & Forms, Surveys & Polls, Calendar Sync & Event, RSVP, School Directory; Supported by - Aeries Integration, Single Sign-On, Seamless API Data Integration, Aeries Student Groups, Contact Management, Gradebook Alerts, Mobile App, Volunteering, Customer Support Included; Secure Document Delivery	\$5.00	\$185,000.00
Additional Products & Services TOTAL:				\$185,000.00
TOTAL:				\$185,000.00

Aeries Communications Terms and Conditions:

The Services are subject to the terms contained in this Order Form, the School Agreement located at www.parentsquare.com/agreement, and incorporated by reference into this Order Form ("ParentSquare School Agreement"), and any exceptions listed in the Exceptions section.

Signature: _____

Effective Date: ____/____/____

Name (Print): _____

Title: _____

Please sign and email to Brandon Cruz at brandonc@aeries.com

THANK YOU FOR YOUR BUSINESS!

770 The City Dr. S, Suite 6500, Orange, CA 92868
Phone: 888.487.7555
Email: sales@aeries.com

STANDARD STUDENT DATA PRIVACY AGREEMENT

**CA-NDPA Standard
Version 1.5
(01.28.25)**

and

This Student Data Privacy Agreement (“**DPA**”) is entered into on the date of full execution (the “**Effective Date**”) and is entered into by and between:

_____, located at _____
(the “**Local Education Agency**” or “**LEA**”) and _____, located at _____
(the “**Provider**”).

WHEREAS, the Provider is providing educational or digital services to LEA.

WHEREAS, the Provider and LEA recognize the need to protect personally identifiable student information and other regulated data exchanged between them as required by applicable laws and regulations, such as the Family Educational Rights and Privacy Act (“**FERPA**”) at 20 U.S.C. § 1232g (34 CFR Part 99); the Children’s Online Privacy Protection Act (“**COPPA**”) at 15 U.S.C. § 6501-6506 (16 CFR Part 312), applicable state privacy laws and regulations
and

WHEREAS, the Provider and LEA desire to enter into this DPA for the purpose of establishing their respective obligations and duties in order to comply with applicable laws and regulations.

NOW THEREFORE, for good and valuable consideration, LEA and Provider agree as follows:

1. A description of the Services to be provided, the categories of Student Data that may be provided by LEA to Provider, and other information specific to this DPA are contained in the Standard Clauses hereto.

2. **Special Provisions. *Check if Required***

If checked, the Supplemental State Terms and attached hereto as **Exhibit “G”** are hereby incorporated by reference into this DPA in their entirety.

If Checked, the Provider, has signed **Exhibit “E”** to the Standard Clauses, otherwise known as General Offer of Privacy Terms

3. In the event of a conflict between the SDPC Standard Clauses, the State or Special Provisions will control. In the event there is conflict between the terms of the DPA and any other writing, including, but not limited to the Service Agreement and Provider Terms of Service or Privacy Policy the terms of this DPA shall control.
4. This DPA shall stay in effect for three years. Exhibit E will expire 3 years from the date the original DPA was signed.
5. The services to be provided by Provider to LEA pursuant to this DPA are detailed in **Exhibit “A”** (the “**Services**”).
6. **Notices**. All notices or other communication required or permitted to be given hereunder may be given via e-mail transmission, or first-class mail, sent to the designated representatives below.

The designated representative for the LEA for this DPA is:

Name: _____ Title: _____

Address: _____

Phone: _____ Email: _____

The designated representative for the Provider for this DPA is:

Name: _____ Title: _____

Address: _____

Phone: _____ Email: _____


IN WITNESS WHEREOF, LEA and Provider execute this DPA as of the Effective Date.

LEA:

By:  _____ Date: 5/29/2025

Printed Name: _____ Title/Position: _____

PROVIDER:

By:  _____ Date: _____

Printed Name: _____ Title/Position: _____

STANDARD CLAUSES

Version 3.0

ARTICLE I: PURPOSE AND SCOPE

1. **Purpose of DPA.** The purpose of this DPA is to describe the duties and responsibilities to protect Student Data including compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time. In performing these services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the LEA. Provider shall be under the direct control and supervision of the LEA, with respect to its use of Student Data
2. **Student Data to Be Provided.** In order to perform the Services described above, LEA shall provide Student Data as identified in the Schedule of Data, attached hereto as **Exhibit "B"**.
3. **DPA Definitions.** The definition of terms used in this DPA is found in **Exhibit "C"**. In the event of a conflict, definitions used in this DPA shall prevail over terms used in any other writing, including, but not limited to the Service Agreement, Terms of Service, Privacy Policies etc.

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Student Data Property of LEA.** All Student Data transmitted to the Provider pursuant to the Service Agreement is and will continue to be the property of and under the control of the LEA. The Provider further acknowledges and agrees that all copies of such Student Data transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are subject to the provisions of this DPA in the same manner as the original Student Data. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data contemplated per the Service Agreement, shall remain the exclusive property of the LEA. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the LEA as it pertains to the use of Student Data, notwithstanding the above.
2. **Parent Access.** To the extent required by law the LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Education Records and/or Student Data correct erroneous information, and procedures for the transfer of student-generated content to a personal account, consistent with the functionality of services. Provider shall respond in a reasonably timely manner (and no later than forty five (45) days from the date of the request or pursuant to the time frame required under state law for an LEA to respond to a parent or student, whichever is sooner) to the LEA's request for Student Data in a student's records held by the Provider to view or correct as necessary. In the event that a parent of a student or other individual contacts the Provider to review any of the Student Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the LEA, who will follow the necessary and proper procedures regarding the requested information.
3. **Separate Account.** If Student-Generated Content is stored or maintained by the Provider, Provider shall, at the request of the LEA, transfer, or provide a mechanism for the LEA to transfer, said Student-Generated Content to a separate account created by the student.

4. **Law Enforcement Requests.** Should law enforcement or other government entities (“Requesting Party(ies)”) contact Provider with a request for Student Data held by the Provider pursuant to the Services, the Provider shall notify the LEA in advance of a compelled disclosure to the Requesting Party, unless lawfully directed by the Requesting Party not to inform the LEA of the request.
5. **Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions for the Provider in order for the Provider to provide the Services pursuant to the Service Agreement, whereby the Subprocessors agree to protect Student Data in a manner no less stringent than the terms of this DPA.

ARTICLE III: DUTIES OF LEA

1. **Provide Data in Compliance with Applicable Laws.** LEA shall provide Student Data for the purposes of obtaining the Services in compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time.
2. **Annual Notification of Rights.** If the LEA has a policy of disclosing Education Records and/or Student Data under FERPA (34 CFR § 99.31(a)(1)), LEA shall include a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest in its annual notification of rights.
3. **Reasonable Precautions.** LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted Student Data.
4. **Unauthorized Access Notification.** LEA shall notify Provider promptly of any known unauthorized access. LEA will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

ARTICLE IV: DUTIES OF PROVIDER

1. **Privacy Compliance.** The Provider shall comply with all applicable federal, state, and local laws, rules, and regulations pertaining to Student Data privacy and security, all as may be amended from time to time.
2. **Authorized Use.** The Student Data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services outlined in Exhibit A or stated in the Service Agreement and/or otherwise authorized under the statutes referred to herein this DPA.
3. **Provider Employee Obligation.** Provider shall require all of Provider’s employees and agents who have access to Student Data to comply with all applicable provisions of this DPA with respect to the Student Data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to Student Data pursuant to the Service Agreement.
4. **No Disclosure.** Provider acknowledges and agrees that it shall not make any re-disclosure of any Student Data or any portion thereof, including without limitation, user content or other non-public information and/or personally identifiable information contained in the Student Data other than as directed or

permitted by the LEA or this DPA. This prohibition against disclosure shall not apply to aggregate summaries of De-Identified information, Student Data disclosed pursuant to a lawfully issued subpoena or other legal process, or to subprocessors performing services on behalf of the Provider pursuant to this DPA. Provider will not Sell Student Data to any third party.

5. **De-Identified Data**: Provider agrees not to attempt to re-identify de-identified Student Data. De-Identified Data may be used by the Provider for those purposes allowed under FERPA and the following purposes: (1) assisting the LEA or other governmental agencies in conducting research and other studies; and (2) research and development of the Provider's educational sites, services, or applications, and to demonstrate the effectiveness of the Services; and (3) for adaptive learning purpose and for customized student learning. Provider's use of De-Identified Data shall survive termination of this DPA or any request by LEA to return or destroy Student Data. Except for Subprocessors, Provider agrees not to transfer de-identified Student Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to the LEA who has provided prior written consent for such transfer. Prior to publishing any document that names the LEA explicitly or indirectly, the Provider shall obtain the LEA's written approval of the manner in which de-identified data is presented.
6. **Disposition of Data**. Upon written request from the LEA, Provider shall dispose of or provide a mechanism for the LEA to transfer Student Data obtained under the Service Agreement, within sixty (60) days of the date of said request and according to a schedule and procedure as the Parties may reasonably agree. Upon termination of this DPA, if no written request from the LEA is received, Provider shall dispose of all Student Data after providing the LEA with reasonable prior notice. The duty to dispose of Student Data shall not extend to Student Data that had been De-Identified or placed in a separate student account pursuant to section II 3. The LEA may employ a "Directive for Disposition of Data" form, a copy of which is attached hereto as **Exhibit "D"**. If the LEA and Provider employ Exhibit "D," no further written request or notice is required on the part of either party prior to the disposition of Student Data described in Exhibit "D."
7. **Advertising Limitations**. Provider is prohibited from using, disclosing, or selling Student Data to (a) inform, influence, or enable Targeted Advertising; or (b) develop a profile of a student, family member/guardian or group, for any purpose other than providing the Service to LEA. This section does not prohibit Provider from using Student Data (i) for adaptive learning or customized student learning (including generating personalized learning recommendations); or (ii) to make product recommendations to teachers or LEA employees; or (iii) to notify account holders about new education product updates, features, or services or from otherwise using Student Data as permitted in this DPA and its accompanying exhibits

ARTICLE V: DATA PROVISIONS

1. **Data Storage**. Where required by applicable law, Student Data shall be stored within the United States. Upon request of the LEA, Provider will provide a list of the locations where Student Data is stored.
2. **Audits**. No more than once a year, or following unauthorized access, upon receipt of a written request from the LEA with at least ten (10) business days' notice and upon the execution of an appropriate confidentiality agreement, the Provider will allow the LEA to audit the security and privacy measures that are in place to ensure protection of Student Data or any portion thereof as it pertains to the delivery of services to the LEA . The Provider will cooperate reasonably with the LEA and any local, state, or federal

agency with oversight authority or jurisdiction in connection with any audit or investigation of the Provider and/or delivery of Services to students and/or LEA, and shall provide reasonable access to the Provider's facilities, staff, agents and LEA's Student Data and all records pertaining to the Provider, LEA and delivery of Services to the LEA. Failure to reasonably cooperate shall be deemed a material breach of the DPA.

3. **Data Security.** The Provider agrees to utilize administrative, physical, and technical safeguards designed to protect Student Data from unauthorized access, disclosure, acquisition, destruction, use, or modification. The Provider shall adhere to any applicable law relating to data security. The provider shall implement an adequate Cybersecurity Framework based on one of the nationally recognized standards set forth set forth in **Exhibit "F"**. Exclusions, variations, or exemptions to the identified Cybersecurity Framework must be detailed in an attachment to **Exhibit "H"**. Additionally, Provider may choose to further detail its security programs and measures that augment or are in addition to the Cybersecurity Framework in **Exhibit "F"**. Provider shall provide, in the Standard Schedule to the DPA, contact information of an employee who LEA may contact if there are any data security concerns or questions.
4. **Data Breach.** In the event of an unauthorized release, disclosure or acquisition of Student Data that compromises the security, confidentiality or integrity of the Student Data maintained by the Provider the Provider shall provide notification to LEA within seventy-two (72) hours of confirmation of the incident, unless notification within this time limit would disrupt investigation of the incident by law enforcement. In such an event, notification shall be made within a reasonable time after the incident. Provider shall follow the following process:
 - (1) The security breach notification described above shall include, at a minimum, the following information to the extent known by the Provider and as it becomes available:
 - i. The name and contact information of the reporting LEA subject to this section.
 - ii. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
 - iii. If the information is possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3) the date range within which the breach occurred. The notification shall also include the date of the notice.
 - iv. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided; and
 - v. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
 - (2) Provider agrees to adhere to all federal and state requirements with respect to a data breach related to the Student Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
 - (3) Provider further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of Student Data or any portion thereof, including personally identifiable information and agrees to provide LEA, upon request, with a summary of said written incident response plan.

- (4) LEA shall provide notice and facts surrounding the breach to the affected students, parents or guardians.
- (5) In the event of a breach originating from LEA's use of the Service, Provider shall cooperate with LEA to the extent necessary to expeditiously secure Student Data.

ARTICLE VI: GENERAL OFFER OF TERMS

Provider may, by signing the attached form of "General Offer of Privacy Terms" (General Offer, attached hereto as **Exhibit "E"**), be bound by the terms of **Exhibit "E"** to any other LEA who signs the acceptance on said Exhibit. The form is limited by the terms and conditions described therein.

ARTICLE VII: MISCELLANEOUS

1. **Termination.** In the event that either Party seeks to terminate this DPA, they may do so by mutual written consent so long as the Service Agreement has lapsed or has been terminated. Either party may terminate this DPA and any service agreement or contract if the other party breaches any terms of this DPA.
2. **Effect of Termination Survival.** If the Service Agreement is terminated, the Provider shall destroy all of LEA's Student Data pursuant to Article IV, section 6.
3. **Priority of Agreements.** This DPA shall govern the treatment of Student Data in order to comply with the privacy protections, including those found in FERPA and all applicable privacy statutes identified in this DPA. In the event there is conflict between the terms of the DPA and the Service Agreement, Terms of Service, Privacy Policies, or with any other bid/RFP, license agreement, or writing, the terms of this DPA shall apply and take precedence. In the event of a conflict between Exhibit H, the SDPC Standard Clauses, and/or the Supplemental State Terms, Exhibit H will control, followed by the Supplemental State Terms. Except as described in this paragraph herein, all other provisions of the Service Agreement shall remain in effect.
4. **Entire Agreement.** This DPA and the Service Agreement constitute the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior communications, representations, or agreements, oral or written, by the Parties relating thereto. This DPA may be amended and the observance of any provision of this DPA may be waived (either generally or in any particular instance and either retroactively or prospectively) only with the signed written consent of both Parties. Neither failure nor delay on the part of any Party in exercising any right, power, or privilege hereunder shall operate as a waiver of such right, nor shall any single or partial exercise of any such right, power, or privilege preclude any further exercise thereof or the exercise of any other right, power, or privilege.

5. **Severability.** Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the Parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.
6. **Governing Law; Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF THE LEA, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS FOR THE COUNTY OF THE LEA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS DPA OR THE TRANSACTIONS CONTEMPLATED HEREBY.
7. **Successors Bound:** This DPA is and shall be binding upon the respective successors in interest to Provider in the event of a merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of such business. In the event that the Provider sells, merges, or otherwise disposes of its business to a successor during the term of this DPA, the Provider shall provide written notice to the LEA no later than sixty (60) days after the closing date of sale, merger, or disposal. Such notice shall include a written, signed assurance that the successor will assume the obligations of the DPA and any obligations with respect to Student Data within the Service Agreement. The LEA has the authority to terminate the DPA if it disapproves of the successor to whom the Provider is selling, merging, or otherwise disposing of its business.
8. **Authority.** Each party represents that it is authorized to bind to the terms of this DPA, including confidentiality and destruction of Student Data and any portion thereof contained therein, all related or associated institutions, individuals, employees or contractors who may have access to the Student Data and/or any portion thereof.
9. **Waiver.** No delay or omission by either party to exercise any right hereunder shall be construed as a waiver of any such right and both parties reserve the right to exercise any such right from time to time, as often as may be deemed expedient.

EXHIBIT "A"
DESCRIPTION OF SERVICES

Unless specified, and explicitly excluded below, this DPA covers access to and use of all Provider's Services, as well as any future Services that Provider may offer. This coverage extends, without limitation, to all subdomains, software, mobile applications, and products that are owned and operated by Provider, its subsidiaries, and/or affiliates, except for those explicitly excluded below.

If applicable, any **EXCLUDED** services will be listed below and are therefore not covered by this DPA:

I have completed **Exhibit "A"** and, if applicable, specified any excluded Services that are not covered under this DPA.

EXHIBIT B: SCHEDULE OF STUDENT DATA

All Data Elements identified in this Exhibit are correct at time of signature.

Data Elements Collected by Product (required and optional):

Category of Data / Data Elements	ALL DPA- COVERED APPS						
Application Technology MetaData							
IP Addresses of users, use of cookies, etc.							
Other application technology metadata							
<i>If 'Other' checked, please specify below checked box:</i>							
Application Use Statistics							
Meta data on user interaction with application							
Assessment							
Standardized test scores							
Observation data							
Voice recordings							
Other assessment data							
<i>If 'Other' checked, please specify below checked box:</i>							
Attendance							
Student school (daily) attendance data							

Category of Data / Data Elements	ALL DPA- COVERED APPS						
Student class attendance data							
Communication							
Online communication captured (emails, blog entries)							
Conduct							
Conduct or behavioral data							
Demographics							
Data of birth							
Place of birth							
Gender							
Ethnicity or race							
Language information (native, or primary language spoken by student)							
Other demographic information							
<i>If 'Other' checked, please specify below checked box:</i>							
Enrollment							
Student school enrollment							
Student grade level							
Homeroom							
Guidance counselor							
Specific curriculum programs							
Year of graduation							

Category of Data / Data Elements	ALL DPA- COVERED APPS						
Other enrollment information							
<i>If 'Other' checked, please specify below checked box:</i>							
Parent/Guardian Contact Information							
Address							
Email							
Phone							
Parent/Guardian ID							
Parent ID number (created to link parents to students)							
Parent/Guardian Name							
First and/or last							
Schedule							
Student scheduled courses							
Teacher names							
Special Indicator							
English language learner information							
Low-income status							
Medical alerts/health data							
Student disability information							
Specialized education Services (IEP or 504)							
Living situations (homeless/foster care)							
Other indicator information							

Category of Data / Data Elements	ALL DPA- COVERED APPS						
<i>If 'Other' checked, please specify below checked box:</i>							
Student Contact Information							
Address							
Email							
Phone							
Student Identifiers							
Local (school district) ID number							
State ID number							
Provider/app assigned student ID number							
Student app username							
Student app passwords							
Student Name							
First and/or last							
Student In App Performance							
Program/application performance (e.g. typing program – student types 60 wpm, reading program – student reads below grade level)							
Student Program Membership							
Academic or extracurricular activities a student may belong to or participate in							

Category of Data / Data Elements	ALL DPA- COVERED APPS						
Student Survey Responses							
Student responses to surveys or questionnaires							
Student Work							
Student generated content; writing, pictures, etc.							
Other student work data							
<i>If 'Other' checked, please specify below checked box:</i>							
Transcript							
Student course grades							
Student course data							
Student course grades/performance scores							
Other transcript data							
<i>If 'Other' checked, please specify below checked box:</i>							
Transportation							
Student bus assignment							
Student pick up and/or drop off location							
Student bus card ID number							
Other transportation data							

Category of Data / Data Elements	ALL DPA- COVERED APPS						
<i>If 'Other' checked, please specify below checked box:</i>							
Other							
Other data collected							
<i>If 'Other' checked, please list each additional data element used, stored, or collected by your application below checked box:</i>							
None							
No student data collected at this time. Provider will immediately notify LEA if this designation is no longer applicable.							

EXHIBIT “C”

DEFINITIONS

De-Identified Data and De-Identification: Records and information are considered to be de-identified when all personally identifiable information has been removed or obscured, such that the remaining information does not reasonably identify a specific individual, including, but not limited to, any information that, alone or in combination is linkable to a specific student and provided that the educational agency, or other party, has made a reasonable determination that a student’s identity is not personally identifiable, taking into account reasonable available information.

Educational Records: Educational Records are records, files, documents, and other materials directly related to a student and maintained by the school or local education agency, or by a person acting for such school or local education agency, including but not limited to, records encompassing all the material kept in the student’s cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement, and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

Metadata: means information that provides meaning and context to other data being collected; including, but not limited to: date and time records and purpose of creation Metadata that have been stripped of all direct and indirect identifiers are not considered Personally Identifiable Information.

Operator: means the operator of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for K–12 school purposes. Any entity that operates an internet website, online service, online application, or mobile application that has entered into a signed, written agreement with an LEA to provide a service to that LEA shall be considered an “operator” for the purposes of this section.

Originating LEA: An LEA who originally executes the DPA in its entirety with the Provider.

Provider: For purposes of the DPA, the term “Provider” means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Student Data. Within the DPA the term “Provider” includes the term “Third Party” and the term “Operator” as used in applicable state statutes.

Student Generated Content: The term “student-generated content” means materials or content created by a student in the services including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, videos, and account information that enables ongoing ownership of student content.

School Official: For the purposes of this DPA and pursuant to 34 CFR § 99.31(b), a School Official is a contractor that: (1) Performs an institutional service or function for which the agency or institution would otherwise use employees; (2) Is under the direct control of the agency or institution with respect to the use and maintenance of Student Data including Education Records; and (3) Is subject to 34 CFR § 99.33(a) governing the use and re-disclosure of personally identifiable information from Education Records.

Service Agreement: Refers to the Contract, Purchase Order or Terms of Service or Terms of Use.

Student Data: Student Data includes any data, whether gathered by Provider or provided by LEA or its users, students, or students’ parents/guardians, that is descriptive of the student including, but not limited to

information in the student's educational record or email, first and last name, birthdate, home or other physical address, telephone number, email address, or other information allowing physical or online contact, discipline records, videos, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security numbers, biometric information, disabilities, socioeconomic information, individual purchasing behavior or preferences, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, geolocation information, parents' names, or any other information or identification number that would provide information about a specific student. Student Data includes Meta Data. Student Data further includes "personally identifiable information (PII)," as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law. Student Data shall constitute Education Records for the purposes of this DPA, and for the purposes of federal, state, and local laws and regulations. Student Data as specified in **Exhibit "B"** is confirmed to be collected or processed by the Provider pursuant to the Services. Student Data shall not constitute that information that has been anonymized or de-identified, or anonymous usage data regarding a student's use of Provider's services.

Subprocessor: For the purposes of this DPA, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than LEA or Provider, who Provider uses for data collection, analytics, storage, or other service to operate and/or improve its service, and who has access to Student Data.

Subscribing LEA: An LEA that was not party to the original Service Agreement and who accepts the Provider's General Offer of Privacy Terms.

Targeted Advertising: means presenting an advertisement to a student where the selection of the advertisement is based on Student Data or inferred over time from the usage of the operator's Internet web site, online service or mobile application by such student or the retention of such student's online activities or requests over time for the purpose of targeting subsequent advertisements. "Targeted advertising" does not include any advertising to a student on an Internet web site based on the content of the web page or in response to a student's response or request for information or feedback.

Third Party: The term "Third Party" means a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Education Records and/or Student Data, as that term is used in some state statutes. However, for the purpose of this DPA, the term "Third Party" when used to indicate the provider of digital educational software or services is replaced by the term "Provider."

EXHIBIT "D"

DIRECTIVE FOR DISPOSITION OF DATA

Provider to dispose of data obtained by Provider pursuant to the terms of the Service Agreement between LEA and Provider. The terms of the Disposition are set forth below:

1. Extent of Disposition

_____ Disposition is partial. The categories of data to be disposed of are set forth below or are found in an attachment to this Directive:

 x Disposition is complete. Disposition extends to all categories of data.

2. Nature of Disposition

 x Disposition shall be by destruction or deletion of data.

_____ Disposition shall be by a transfer of data. The data shall be transferred to the following site as follows:

3. Schedule of Disposition

Data shall be disposed of by the following date:

 x As soon as commercially practicable.

_____ By _____

4. Signature

Authorized Representative of LEA

Date

5. Verification of Disposition of Data

James Mallory



Authorized Representative of Company

05/21/2025

Date

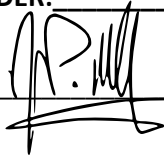
EXHIBIT "E"
GENERAL OFFER OF PRIVACY TERMS

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and

("Originating LEA") which is dated _____, to any other LEA ("Subscribing LEA") who accepts this General Offer of Privacy Terms ("General Offer") through its signature below. This General Offer shall extend only to privacy protections, and Provider's signature shall not necessarily bind Provider to other terms, such as price, term, or schedule of services, or to any other provision not addressed in this DPA. The Provider and the Subscribing LEA may also agree to change the data provided by Subscribing LEA to the Provider to suit the unique needs of the Subscribing LEA. The Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statutes; (2) a material change in the services and products listed in the originating Service Agreement; or three (3) years after the date of Provider's signature to this Form. Subscribing LEAs should send the signed **Exhibit "E"** to Provider at the following email address:

PROVIDER:

BY: 

Date: _____

Printed Name: _____ Title/Position: _____

2. Subscribing LEA

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA and the Provider shall therefore be bound by the same terms of this DPA for the term of the DPA between the

and the Provider. ****PRIOR TO ITS EFFECTIVENESS, SUBSCRIBING LEA MUST DELIVER NOTICE OF ACCEPTANCE TO PROVIDER PURSUANT TO ARTICLE VII, SECTION 5. ****

LEA: _____

BY:

Date: _____

Printed Name: _____ Title/Position: _____

SCHOOL DISTRICT NAME: _____

DESIGNATED REPRESENTATIVE OF LEA:

Name: _____

Title: _____

Address: _____

Telephone Number: _____

Email: _____

EXHIBIT "F"
DATA SECURITY REQUIREMENTS

Adequate Cybersecurity Frameworks
2/24/2020

Below is a list of known and credible cybersecurity frameworks which can protect digital learning ecosystems chosen based on a set of guiding cybersecurity principles ("Cybersecurity Frameworks") that may be utilized by Provider.

Cybersecurity Frameworks

	MAINTAINING ORGANIZATION/GROUP	FRAMEWORK(S)
<input type="checkbox"/>	National Institute of Standards and Technology	NIST Cybersecurity Framework Version 1.1
<input type="checkbox"/>	National Institute of Standards and Technology	NIST SP 800-53, Cybersecurity Framework for Improving Critical Infrastructure Cybersecurity (CSF), Special Publication 800-171
<input type="checkbox"/>	International Standards Organization	Information technology – Security techniques – Information security management systems (ISO 27000 series)
<input type="checkbox"/>	Secure Controls Framework Council, LLC	Security Controls Framework (SCF)
<input type="checkbox"/>	Center for Internet Security	CIS Critical Security Controls (CSC, CIS Top 20)
<input type="checkbox"/>	Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S))	Cybersecurity Maturity Model Certification (CMMC, ~FAR/DFAR)

EXHIBIT G: Supplemental State Terms for California & AI Addendum

This Amendment for State Terms for California ("**Amendment**") is entered into on the date of full execution (the "**Effective Date**") and is incorporated into and made a part of the Student Data Privacy Agreement ("**DPA**") by and between:

, located at
(the "**Local Education Agency**" or "**LEA**") and
, located at
(the "**Provider**").

All capitalized terms not otherwise defined herein shall have the meaning as defined in the attached DPA.

WHEREAS, the Provider is providing educational or digital Services to LEA. ,

WHEREAS, the Provider and LEA recognize the need to protect personally identifiable student information and other regulated data exchanged between them as required by applicable laws and regulations, such as the Family Educational Rights and Privacy Act ("FERPA") at 20 U.S.C. §1232g (34 C.F.R. Part 99); and the Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. §6501-6506 (16 C.F.R. Part 312), applicable laws, and

WHEREAS, the Provider and LEA agree that additional and modified sections are required to address the use of Artificial Intelligence ("AI") as part of the services or product provided; and

WHEREAS, the Provider and LEA desire to enter into this DPA for the purpose of establishing their respective obligations and duties in order to comply with applicable laws and regulations.

NOW THEREFORE, for good and valuable consideration, LEA and Provider agree to the following:

1. **Term**. Unless otherwise terminated by the Parties, this Amendment shall remain effective for the duration of the attached DPA.
2. **Amendment to ARTICLE II, § 2**. of the DPA (Parent, Legal Guardian and Student Access) is amended as follows:

In accordance with California Education Code § 49073.1(b)(2), should the Provider store or maintain Student-Generated Content, the Provider shall, upon request from the LEA, provide a mechanism for students to retain ownership of the content they create, which shall include text or images generated by Artificial Intelligence, to be defined below. Furthermore, this NDPA does not impede the ability of students to download, export, or otherwise save or maintain their own Student Generated Content directly from Provider or for Provider to provide a mechanism for such download, export, transfer or saving to students, or the student's parent or legal guardian. Nor does it impede the ability of Providers to offer LEAs features to allow such ability.

3. **Amendment to ARTICLE I, to include the addition(s) of § 4 & 4.1 & 4.2:**
 4. **Use of Artificial Intelligence**. If the Services described in Exhibit "A" require Provider to use AI, ownership of Student Data shall remain with the District or Student. The Provider is prohibited from using or reproducing Student Data for AI training or content generation without prior written consent from the District. Furthermore, sub-licensing Student Data for these purposes is strictly prohibited without explicit written permission from the parents or eligible pupils. Access to District-provided Student Data is limited to authorized users unless granted in writing by the LEA or otherwise permitted under this DPA.
 - 4.1 **Hallucinations**. Provider will provide notice in the event that any feature of the services it provides is modified to include AI functions. Provider further represents that it will monitor the Hallucination rate of the service and take industry standard methods to reduce Hallucination rates.
 - 4.2 **Collection of Student Data and AI Use**. The Provider must complete the attached AI Schedule of Data.

4. **Amendment to Article IV, to add a new Section 8**

8. **Algorithmic Biases.** The Provider certifies that any AI technologies used in facilitating the Services are regularly audited for biases and fairness and, if necessary, Provider shall implement strategies to identify and mitigate any discriminatory effects or biases in AI decision-making. Upon request by the LEA, the Provider shall provide the LEA an abstract or summary of findings of that portion of the audit pertaining to algorithmic bias.

Furthermore, Student Data, as defined elsewhere in the DPA, shall not be used for training purposes or to develop synthetic and/or inferred data. All other provisions of the DPA shall remain in effect.

5. **Amendment to Exhibit C: Definitions shall be amended to include the following terms:**

Algorithmic Bias: Where an algorithm produces systematically prejudiced outcomes favoring certain groups or disadvantaging others based on characteristics like gender, race, age, ethnicity or other protected attributes.

Artificial Intelligence (AI): Refers to systems that display intelligent behavior by analyzing their environment and taking action, with some degree of autonomy, to achieve specific goals.

Hallucination: A response by an artificial intelligence to a user request or query that is incorrect, nonsensical or misleading that may appear to be factually correct.

Describe how Student Data is Used:

Any other information related to Provider's use of AI:

The Provider certifies that any AI technologies used in facilitating the Services are regularly audited for biases and fairness and, if necessary, Provider shall implement strategies to identify and mitigate any discriminatory effects or biases in AI decision-making. Furthermore, Student Data, as defined elsewhere in the DPA, shall not be used for training purposes or to develop synthetic and/or inferred data. All other provisions of the DPA shall remain in effect.


IN WITNESS WHEREOF, LEA and Provider execute this DPA as of the Effective Date.

LEA: _____

BY: _____ DATE: _____

Printed Name _____ Title/Position _____

Provider: _____

BY:  _____ DATE: _____

Printed Name _____ Title/Position _____

AI Addendum

(METHODS EMPLOYED BY THE AI)

The following information correlates to how the Provider will use AI in the delivery services to LEA.

Type of AI Used	Description/Common Uses	Optional	Required
Intelligent Tutoring Systems/agents (ITS)	<i>Personalized instruction based on students' individual learning needs and progress</i>	<input type="checkbox"/>	<input type="checkbox"/>
Adaptive Learning/Assessment Platforms	<i>Adjusts the difficulty level and content of learning materials based on the student's performance and learning pace</i>	<input type="checkbox"/>	<input type="checkbox"/>
Natural Language Processing (NLP)	<i>Analyze and understand students' written or spoken responses, providing feedback or assistance in language learning tasks.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Machine Learning-based Recommended Systems	<i>Recommend educational resources, such as books, videos, or exercises, based on students' preferences, learning styles, and performance history.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Virtual Assistants (i.e. Alexa, Siri, Merlyn Mind)	<i>Provide automated and personalized support by handling tasks, answering questions, and managing workflows.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Chatbots/LLMs (i.e. ChatGPT)	<i>Facilitate automated and interactive communication; provides instant responses to questions and assists with various tasks through natural language processing.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Data Analytics and Predictive Modeling	<i>Analyze historical data and identify patterns to forecast future trends and inform strategic decision-making.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Gamification and/or Personalized Learning Paths	<i>Enhance engagement and optimize individual learning experiences by incorporating game-like elements and/or tailoring educational content to each learner's unique needs and progress.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Computer Vision (i.e. CNNs, GANs)	<i>Interpret, analyze, and generate visual data, mimicking human visual perception for applications such as image recognition, object detection, and image synthesis.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Recommender Systems/Filtering (i.e. KNN, TF-IDF)	<i>Analyze user preferences and behavior to suggest personalized content, products, or services</i>	<input type="checkbox"/>	<input type="checkbox"/>
Translation (i.e. Transformer, DeepL)	<i>Translate text from one language to another, leveraging advanced machine-learning techniques to understand and generate human-like language translations.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Neural Machine Translation (NMT)	<i>Algorithms used to provide accurate and fluent translations by understanding and processing entire sentences as opposed to individual words or phrases.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Speech Recognition (i.e. DNNs, Wav2Vec)	<i>Convert spoken language into text by accurately identifying and processing the acoustic signals of human speech.</i>	<input type="checkbox"/>	<input type="checkbox"/>

Type of AI Used	Description/Common Uses	Optional	Required
Time Series Analysis (i.e. ARIMA, LSTMs)	Analyze and interpret temporal data points to identify patterns, trends, and seasonal variations, aiding in forecasting and decision-making.	<input type="checkbox"/>	<input type="checkbox"/>
Reinforcement Learning (i.e. Q-Learning, DQNs)	Teaches optimal behaviors and decision-making policies by interacting with an environment and receiving feedback through rewards and penalties.	<input type="checkbox"/>	<input type="checkbox"/>
Dimensionality Reduction i.e. (PCA, t-SNE)	Reduces the number of variables in a dataset while preserving as much variability and information as possible to simplify analysis and visualization.	<input type="checkbox"/>	<input type="checkbox"/>
Other Types of AI Used	Specify other types of AI here:	<input type="checkbox"/>	<input type="checkbox"/>
Purpose of AI Use	Description	Optional	Required
Personalized learning	Customized learning to match a students' strengths, weaknesses, and learning styles.	<input type="checkbox"/>	<input type="checkbox"/>
Enhanced Teaching and Learning	Assist teachers in delivering more effective instruction and help students grasp difficult concepts more easily.	<input type="checkbox"/>	<input type="checkbox"/>
Automated Grading and Feedback	Automate the grading for assignments, quizzes, and exams; provides immediate feedback to students.	<input type="checkbox"/>	<input type="checkbox"/>
Identifying Learning Gaps	Analyze student performance data to identify areas where students are struggling and provide targeted interventions to address learning gaps.	<input type="checkbox"/>	<input type="checkbox"/>
Supporting Special Education	Additional support and accommodations for students with special needs, including personalized learning plans and assistive technologies	<input type="checkbox"/>	<input type="checkbox"/>
Promoting Engagement and Motivation	Gamification elements and interactive learning experiences; increase student engagement and motivation	<input type="checkbox"/>	<input type="checkbox"/>
Administrative Support	Assist with administrative tasks such as scheduling, grading, and managing educational resources	<input type="checkbox"/>	<input type="checkbox"/>
Parental Engagement	Provide parents with insights into their student's academic progress, for communication and collaboration between parents, students, and teachers	<input type="checkbox"/>	<input type="checkbox"/>
Other Purpose(s) for AI Use	Specify other purpose(s) for AI here:	<input type="checkbox"/>	<input type="checkbox"/>

Student Data Collected With Use of AI	Description	Optional	Required
Student Name	<i>First and/or Last</i>	<input type="checkbox"/>	<input type="checkbox"/>
Date of Birth	<i>Student's date of birth</i>	<input type="checkbox"/>	<input type="checkbox"/>
Student ID Numbers	<i>Unique identification numbers to students for record-keeping purposes.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Demographic Information	<i>Gender, race, ethnicity, nationality, language spoken at home, etc.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Academic Records	<i>academic performance, grades, attendance, disciplinary history, etc.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Special Education Information	<i>Individualized education plans (IEPs), accommodations, special needs, etc.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Health Information	<i>Physical or mental health conditions, medications, allergies, medical history, etc.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Biometric Data	<i>Fingerprints, facial recognition, or voiceprints for authentication or identification</i>	<input type="checkbox"/>	<input type="checkbox"/>
Behavioral Data	<i>Behavior, interactions with educational materials, engagement levels, learning preferences, etc.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Location Information	<i>Track locations, GPS-enabled devices, attendance tracking systems, etc.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Input Data	<i>Information fed into an AI model or algorithm, which is used to train, validate, and test the model to make predictions or perform specific tasks.</i>	<input type="checkbox"/>	<input type="checkbox"/>
Other Student Data	<i>Specify other Student Data here:</i>	<input type="checkbox"/>	<input type="checkbox"/>
No AI used at this time	<i>Provider will immediately notify LEA if this designation is no longer applicable.</i>	<input type="checkbox"/>	<input type="checkbox"/>

☐ All requested AI Elements have been identified in this Exhibit and are correct at time of signature.