TO: Board of Education
FROM: Jacqueline I. Pirro
SUBJECT: Fanning Investigative Services
DATE: June 21, 2019

Provider: Fanning Investigative Services
Term: July 1, 2019 – June 30, 2020
Cost: $180 per employee for background checks and $70.00 per hour for Investigative Services
Services: Background checks and Investigative Services for Residency Determinations
CONTRACT FOR CONSULTANT SERVICES

AGREEMENT dated as of the 6 day of June, 2019 between the HAUPPAUGE UNION FREE SCHOOL DISTRICT ("the District"), having its administrative offices at 495 Hoffman Lane, Hauppauge, New York, 11788-2836, and FANNING INVESTIGATIVE SERVICES ("the Consultant"), having an office at 239 Sprucewood Drive, Levittown, New York 11756.

In consideration of the mutual covenants and conditions contained in this Agreement, the District and the Consultant hereby agree as follows:

1. Retention: The District retains the Consultant and the Consultant agrees to provide the District with the following services ("the Services") and the Consultant makes the representations and warranties hereinafter set forth:

   (a) Upon the District’s request, the Consultant will provide investigative services for residency determinations as follows:

      i. Investigate services will include in person and/or telephone consultations and ancillary services performed in the connection with the investigation.

      ii. Upon completion of 20 hours of investigation, or at the conclusion of any investigation, if prior to 20 hours, the Consultant will consult with the District and advise as to the results of each investigation to date. The Consultant will furnish the District with a written report of each investigation. Should the District desire further investigation following a consultation, any and all work will be billed in accordance with this Agreement.

   (b) Upon the District’s request, the Consultant will perform background checks of employees and/or applicants for employment.

   (c) Consultant represents and warrants that it is duly licensed and authorized to perform the Services and that it will provide the District with licensed and qualified individuals to perform the Services. Consultant further represent and warrants that the Services will be performed by individuals that are licensed pursuant to State, federal and local laws, regulations and rules. Upon the District’s request, the Consultant agrees to submit to the District proof of certification and/or professional licensing of all individuals providing Services.

2. Compensation: The District will compensate the Consultant at the following rates:

<table>
<thead>
<tr>
<th>Type of Service</th>
<th>Rate</th>
<th>Per</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigative Services for Residency Determinations</td>
<td>$70.00</td>
<td>Hour</td>
</tr>
<tr>
<td>Background Checks</td>
<td>$180.00</td>
<td>Employee/Applicant</td>
</tr>
</tbody>
</table>
Any and all disbursements incurred by the Consultant in connection with its Services, including, but not limited to telephone charges, tolls, parking fees, travel accommodations and vehicle usage at the standard IRS mileage for the applicable year are the responsibility of the District. The disbursement expenses must be itemized separately on each invoice. The Consultant must submit monthly invoices (form and substance satisfactory to the District) for the Consultant’s Services. The District will pay the Consultant within 60 calendar days of its receipt, review and approval of the invoice.

9. unless this Agreement is terminated earlier as herein provided. The Consultant acknowledges that the District is under no obligation to renew this Agreement upon its expiration.

3. **Independent Contractor:** The Consultant is retained by the District only for the purposes and to the extent set forth in this Agreement. The Consultant’s relation to the District is solely that of an independent contractor during the period of the Consultant’s retention and delivery of Services hereunder.

Neither the Consultant nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker’s Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance or malpractice insurance. With regard to employees of the Consultant, the Consultant alone will be responsible for their work, personal conduct, direction, compensation, and for payment of all employment and other taxes in relation thereto.

4. **Indemnification:** To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the performance of the Consultant’s Services hereunder, or the action of, or the failure to act by the Consultant, the Consultant’s representatives or employees, or anyone for whose acts the Consultant may be liable.

In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from the Consultant pursuant to the provisions of this Paragraph 5, the District will promptly notify the Consultant of the suit, claim or demand, and give the Consultant an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the Consultant in connection with the defense, which will be at the expense of the Consultant. In the event that the Consultant fails to defend the same within 30 calendar days of receipt of the notice, the District will be entitled to assume the defense thereof, and the Consultant will be liable to repay the District for all its expenses reasonably incurred in connection with the defense (including reasonable attorney's fees, disbursements, expert witness fees and settlement payments).

All of the provisions of this Paragraph 5 will survive the expiration or sooner termination of this Agreement.

5. **Required Records:** The Consultant will provide services and maintain records, logs and reports in accordance with all applicable laws, regulations and requirements of the New York State Education Department, the New York State Department of Labor and District policies and procedures in force during the term of this Agreement. All student records and logs will be the property of the District. The Consultant must provide the District with a copy of any reports, tests, evaluations or observations that are prepared in connection with the Services provided by the Consultant pursuant to this Agreement.
6. **Review of Records:** The District will have the right to examine any or all records or accounts maintained by the Consultant in connection with this Agreement.

7. **District’s Authority:** The Consultant represents and warrants that the Consultant will observe and comply with the policies, rules and regulations of the District including, but not limited to, the District Code of Conduct (collectively, “the Policies”) and will cause the Consultant’s employees to do the same. Copies of the Policies are available at http://www.hauppauge.k12.ny.us/domain/602. The Consultant acknowledges that the Consultant has reviewed and is familiar with the Policies. The Consultant will carry out the orders, directions and policies conveyed by the District from time to time either orally or in writing, provided, however, that the Consultant will determine the manner of carrying out the Consultant’s professional duties hereunder consistent with the Consultant’s status as an independent contractor.

8. **Insurance:** The Consultant will obtain and keep in full force and effect during the term of this Agreement, at the Consultant’s sole cost and expense, the following insurance:

   a. **Workers’ Compensation and N.Y.S. Disability**
      Statutory Workers’ Compensation, Employers’ Liability and N.Y.S. Disability Benefits Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers’ Compensation Board. ACORD certificates are not acceptable. A self-employed person and certain partners and corporate officers are excluded from the definition of “employee” pursuant to Workers’ Compensation Law Section 2(4). As such, individuals in such capacity are excluded from Workers’ Compensation Law coverage requirements. A person seeking an exemption must file a CE-200 form with the State. The form may be completed and submitted directly online to the Workers Compensation Board: http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp

   b. **Professional Errors and Omissions Insurance**
      $2,000,000 per occurrence/ $2,000,000 aggregate for the professional acts of the Consultant performed under this Agreement for the District. If written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement. Coverage must remain in effect for two calendar years following the completion of work.

   c. **Fidelity Bond (Only required if the Consultant has control over District funds or access to District financial information)**
      For dishonest acts of the Consultant’s employees with coverage for computer fraud and fund transfer including client coverage.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Consultant hereby agrees to effectuate the naming of the District as an additional insured on the Consultant’s insurance policies, with the exception of workers' compensation, N.Y. State disability and professional liability. Each policy naming the District as an additional insured must:
• be an insurance policy from an insurer licensed in New York State with an A.M. Best rating of not less than "A-X";
• state that the Consultant’s coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers.

The District must be listed as an additional insured by using endorsement CG 2026 or its equivalent. The decision to accept an alternative endorsement rests solely with the District. A completed copy of the endorsement must be attached to the certificate of insurance and the certificate must state that the endorsement is being used. The certificate of insurance must describe the specific services provided by the Consultant (e.g., physical therapy, psychological services) that are covered by the commercial general liability policy and the umbrella policy. At the District's request, the Consultant will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Consultant will provide a copy of the policy endorsements and forms.

The Consultant hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Consultant, to the extent not covered by the applicable policy.

If a policy is written on a "claims-made" basis, the retroactive date must pre-date the inception of this Agreement.

The Consultant acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The Consultant must provide the District with proof satisfactory to the District that the above requirements have been met, prior to the commencement of work or use of District facilities. The failure of the District to object to the contents of the certificate or the absence of same will not be deemed a waiver of any and all rights held by the District. Upon request, the Consultant will provide the District with a copy of the Consultant’s applicable insurance policies including any endorsements, modifications, or exclusions thereto.

The District, in its sole discretion, may waive one or more of the requirements set forth in this paragraph. A waiver must be in writing and signed by an authorized representative of the District.

9. **Safeguarding Information:** Neither the Consultant nor the District will use or disclose any information concerning the Services pursuant to this Agreement for any purpose which is prohibited by Federal and State statutes and/or regulations.

10. **Termination:**

A. This Agreement may be terminated by the District “for cause” upon the occurrence of any of the following events:

(1) Immediately upon the District delivering written notice to the Consultant of a breach by the Consultant of any of the policies, rules and regulations of the District relating to the health or safety of students or District employees;
(2) Immediately upon the Consultant’s breach of the Consultant’s obligations to provide the insurance coverage set forth in Paragraph 9;

(3) Immediately upon the Consultant’s breach of any of the Consultant’s obligations pursuant to, or violation of, any applicable State or federal law or regulation; or

(4) Fifteen calendar days after the Consultant has received written notice from the District that the Consultant has breached any of the Consultant’s other obligations hereunder unless, within the 15 calendar day period, the Consultant cures the breach to the District’s satisfaction.

(5) Upon termination of this Agreement “for cause,” the Consultant is not entitled to any further payments hereunder.

B. This Agreement is automatically terminated upon the Consultant’s filing of a voluntary petition in bankruptcy or making an assignment for the benefit of creditors, or upon other action taken or suffered, voluntarily or involuntarily, pursuant to any federal or state law for the benefit of insolvents, and upon the filing of an involuntary petition in bankruptcy against the Consultant which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph 11(B), the Consultant is not entitled to any further payments hereunder.

C. This Agreement may be terminated, at any time, by the District for convenience upon 30 calendar days’ written notice to the Consultant. Upon termination of this Agreement for convenience by the District, the Consultant is entitled to receive all sums due, accrued and unpaid as of the date of termination.

D. In the event of termination for any reason, all reports and Services due to the District must be completed by the Consultant and delivered to the District within 30 calendar days of the termination date.

11. Signing of Acknowledgement: The Consultant agrees to complete and sign an Acknowledgement Form with regard to the New York State Education Department Waiver for the New York State Public Retirement System with respect to each owner of the Consultant and each principal employee of the Consultant. A schedule of such persons is attached as Exhibit A.

12. Notices: Any notices required or permitted to be given pursuant to the terms of this Agreement must be in writing and either personally delivered or sent by nationally recognized overnight carrier to the parties at the following addresses:

To the Consultant:

Fanning Investigative Services, LLC
239 Spucewood Drive
Levittown, New York 11756

To the District:

Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Attention: Assistant Superintendent
With a copy to:

Lamb & Barnosky, LLP
534 Broadhollow Road, Suite 210
P.O. Box 9034
Melville, New York 11747
Attention: Eugene R. Barnosky, Esq.

If the notice is sent by personal mail, it will be deemed delivered upon receipt and if sent by registered or certified mail, it will be deemed delivered 3 days after so mailing.

13. **Entire Agreement:** This Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, by and between the parties.

14. **Modification:** This Agreement may not be changed orally, but only by an agreement in writing signed by the party or parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or provision of this Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.

15. **Governing Law, Choice of Forum and Waiver of Jury Trial:** This Agreement is subject to, governed by, enforced according to and construed according to the laws of the State of New York, without regard to the conflicts of laws provisions thereof. Any dispute arising under this Agreement will be litigated in a New York State Court in Suffolk County, New York. The parties each waive trial by jury in any action concerning this Agreement.

16. **No Assignment:** In accordance with the provisions of General Municipal Law § 109, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of the Consultant’s rights, title, or interest in this Agreement, or the Consultant’s power to execute this Agreement to any other person or corporation without the previous consent in writing from the District.

17. **Third-Party Beneficiaries:** There are no third-party beneficiaries of or in this Agreement.

18. **Negotiated Agreement:** This is a negotiated Agreement. It will not be construed against any party by reason of this Agreement being prepared by that party’s attorney. Each party warrants that it/he/she has full power to execute, deliver and perform this Agreement and has taken all actions required by law, organizational documents or otherwise to authorize the execution and delivery of this Agreement.

19. **Iran Divestment Act of 2012:** By signing this Agreement, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its/his/her own organization, under penalty of perjury, that to the best of its/his/her knowledge and belief that each person is not on the list created pursuant New York State Finance Law § 165-a(3)(b).
Plan for Security and Protection of Personally Identifiable Information:

A. "District Data" means all information obtained by the Consultant from the District or by the Consultant in connection with the Services provided by the Consultant pursuant to this Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, "District Data" does not include any information made publically available by the District.

B. "Personally Identifiable Information" or "PII" includes, but is not limited to: (i) a person’s name or address or the names or addresses of a student’s parents or other family members; (ii) any personal identifier (e.g., SSN, student number or biometric record); (iii) indirect identifiers (e.g., date of birth, place of birth, or mother’s maiden name); (iv) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or Consultant reasonably believes knows the identity of the person to whom a record relates.

C. The Consultant represents and warrants that it is fully familiar with and will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of District Data.

D. The Consultant represents and warrants that District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to this Agreement and for no other purpose.

E. The Consultant represents and warrants that it will only collect data from the District or District employees or other End Users (the term “End Users” means the individuals authorized by the District to access and use services provided by the Consultant pursuant to this Agreement) that is necessary to fulfill the Consultant’s duties pursuant to this Agreement.

F. The Parties agree that all rights including all intellectual property rights in and to District Data will remain the exclusive property of the District and that the Consultant has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

G. The Consultant agrees not to use any District Data to advertise of market to District employees or other End Users.

H. The Consultant agrees that, upon receipt of District Data, it will: (i) limit the Consultant’s internal access to District Data to employees with legitimate educational interests (i.e., access will be limited to those employees who must access District Data to implement the terms of this Agreement); (ii) use District Data only for the purposes explicitly authorized by this Agreement; (iii) not disclose any PII from District Data to any other party (a party other than an employee with a legitimate educational interest) without the District’s prior written consent (if necessary, the District will obtain the required consent(s) from third parties), unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order); (iv) maintain reasonable safeguards to maintain confidentiality of PII in District Data; (v) use legally mandated encryption technology to protect District Data from unauthorized disclosure; and (vi) store all District Data within the United States of America.
I. If the Consultant has access to District Data that is subject to the Family Educational Rights and Privacy Act ("FERPA"), the Consultant acknowledges that for purposes of this Agreement it will be designated as a "school official" with a "legitimate educational interest" pursuant to FERPA and its implementing regulations, and the Consultant agrees to abide by the limitations and requirements imposed on school officials.

J. The Consultant represents and warrants that it will comply with the District’s Parents’ Bill of Rights, as supplemented, to include information about this Agreement, a copy of which is annexed hereto as Exhibit B and is signed by the Parties.

K. The Consultant represents and warrants that it has provided or, within 30 calendar days of the date of this Agreement and prior to allowing any of its employees access to District Data, will provide training, about the State and federal laws and regulations governing confidentiality of District Data to any employee who has access to District Data.

L. Except as prohibited by law, the Consultant will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by Consultant seeking District Data; (ii) consult with the District regarding its response; (iii) cooperate with the District’s reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and (iv) upon the District’s request, provide the District with a copy of Consultant’s response.

M. Upon the District’s request, the Consultant agrees that it will promptly make any District Data held by the Consultant available to the District.

N. The Consultant agrees to notify the District of any breach of security resulting in an unauthorized release of PII from District Data by the Consultant or the Consultant’s assignees or subcontractors. This notification will be made in the most expedient way possible and without delay. The Consultant must also notify the District in writing of the breach of security. This written notification must be sent by the Consultant within one calendar day of the breach of security resulting in an unauthorized release of PII from District Data and must be sent to the District by email to the Deputy Superintendent and either personally delivered or sent by nationally recognized overnight carrier to the District. In the case of an unauthorized release of PII from District Data by the Consultant or the Consultant’s assignees or subcontractors, the Consultant must reimburse the District for all the District’s costs associated with the District’s obligation to notify the State’s chief privacy officer, parents, students, teachers and/or principals of the unauthorized release.

O. The parties agree to execute an amendment to this Agreement if required for compliance with any new laws or regulations relating to the confidentiality, security and privacy of data.

P. To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from the District’s notification obligations set forth above in Subparagraph N.

Q. All the provisions of this Paragraph 21 will survive the expiration or sooner termination of this Agreement.
21. **No End User Agreements:** In the event that the Consultant enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the Agreement will apply.

22. **Execution:** The Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement. The Agreement may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

23. **IN WITNESS WHEREOF,** the parties hereto have duly executed this Agreement as of the latter date that appears below.

**HAUPPAUGE UNION FREE SCHOOL DISTRICT**

By: ________________________
David M. Barshay
President, Board of Education

Date: ________________________

**FANNING INVESTIGATIVE SERVICES,**

By: ________________________
Name: _______________________
Title: PRESIDENT

Date: 6-6-19
EXHIBIT A
ACKNOWLEDGMENT WITH REGARD TO THE NEW YORK STATE EDUCATION DEPARTMENT WAIVER

Complete one of the following paragraphs:

1. I, **Michael Fanning** verify that I am not a retired member of any New York State Public Retirement System, and therefore do not require a waiver from the New York State Education Department to perform the duties for which I have contracted.

   **Michael Fanning**
   
   Signed
   
   6/6/9
   
   Date

2. I, ________________ verify that I am a retired member of a New York State Public Retirement System but all collective earnings from any public employment in New York State will not and does not exceed the current earnings limitation. Therefore, I do not require a waiver from the New York State Education Department to perform the duties for which I have contracted.

   ____________________________
   
   Signed
   
   ____________________________
   
   Date

3. I, ________________ verify that I am a retired member of a New York State Public Retirement System and I expect that my collective earnings from any public employment in New York State will exceed the current earnings limitation. Therefore, I require a waiver from the New York State Education Department and I request that ________________ School District file a request for the waiver on my behalf.

   ____________________________
   
   Signed
   
   ____________________________
   
   Date

4. I, ________________ verify that I am a retired member of any New York State Public Retirement System, but I do not require a waiver from the New York State Education Department to perform the duties for which I have contracted because I am at least 65 years old.

   ____________________________
   
   Signed
   
   ____________________________
   
   Date
EXHIBIT B

AGREEMENT BETWEEN FANNING INVESTIGATIVE SERVICES, LLC. ("the Consultant") and the DISTRICT

TERM: JULY 1, 2019 to JUNE 30, 2020

HAUPPAUGE UNION FREE SCHOOL DISTRICT'S PARENTS' BILL OF RIGHTS REGARDING DATA PRIVACY AND SECURITY

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HAUPPAUGE UNION FREE SCHOOL DISTRICT

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY –

Summary of Rights and Information for Parents and Students

The legislature and governor passed a group of bills that adjusted the Regents Education Reform Agenda. These bills are known collectively as the “Common Core Implementation Reform Act.” One of the key components of this act (Chapter 56, Part AA, Subpart L, of the laws of 2014) directs the Commissioner of Education to appoint a Chief Privacy Officer (CPO). A major function of this new position is to work with school districts and parents to develop elements for a parents’ bill of rights to help ensure that student data is private and secure. The State Education Department (SED) and the CPO must also recommend regulations to establish standards for data security and privacy policies that will be implemented statewide.

SED has issued a preliminary Parents’ Bill of Rights for Data Privacy and Security. The Hauppauge Union Free School District is issuing this summary of parents’ rights under the new law. While some additional elements will be developed in conjunction with the CPO, districts, parents and the Board of Regents, this summary sets forth the key rights and information that parents should be aware of in regards to ensuring the privacy and security of their student’s educational data.

The Hauppauge Union Free School District is committed to ensuring student privacy and recognizes that parents, legal guardians, and persons with a parental relationship to a student are entitled to certain rights with regard to their child’s personally identifiable information, as defined by Education Law §2-d. To this end, the District is providing the following Parent’s Bill of Rights for Data Privacy and Security:

1. A student’s personally identifiable information cannot be sold or released for any commercial purposes;

2. Parents have the right to inspect and review the complete contents of their child’s education record;

3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred;
4. A complete list of all student data elements collected by the State is available for public review at http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863, 89 Washington Avenue, New York 12234; and

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to: Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.

If the Hauppauge Union Free School District enters into a third party contract in which the service provider receives student data or teacher or principal data in order to provide a needed service for the District, supplemental information shall be developed and provided to parents that states:

6. The exclusive purposes for which the student data or teacher or principal data will be used;

7. How the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;

8. When the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

9. If and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

10. Where the student data or teacher or principal data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

The CPO as appointed by the Commissioner must secure input from parents and other education and expert stakeholders to develop additional elements for the Parents’ Bill of Rights for Data Privacy and Security. The Commissioner of Education will also be promulgating regulations with a comment period for parents and other members of the public to submit comments and suggestions to the CPO.

In the meantime, you can access additional information and a question and answer document issued by SED as a preliminary Parents’ Bill of Rights for Data Privacy and Security.

If you have any further questions or concerns at this time, please contact Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Dr. Donald B. Murphy, Assistant Superintendent for Curriculum, Instruction, and Technology, Hauppauge UFSD, at (631) 761-8202.

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This Bill of Rights will be included with every contract entered into by the District with an outside contractor if the contractor will receive student data or teacher or principal data. This Bill of Rights will be supplemented to include information about each contract that the District enters into with an outside contractor receiving confidential student data or teacher or principal data, including the exclusive purpose(s) for which the data will be used, how the contractor will ensure confidentiality and data protection and security requirements, the date of expiration of the contract and what happens to the data upon the expiration of the contract, if and how the accuracy of the data collected can be challenged, where the data will be stored and the security protections that will be taken.

“District Data” means all information obtained by the Consultant from the District or by the Consultant in connection with the services provided by Consultant pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District.

(1) **Use of District Data by Consultant.** The District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to the Agreement and for no other purpose.

(2) **Storage and Security Protections.** The Consultant will store and process District Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure District Data from unauthorized access, disclosure, alteration and use. The Consultant will use industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services pursuant to the Agreement. Consultant will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

The following paragraphs describe (in such a manner as to protect data security) the specific storage methods and security protections used by the Consultant to protect District Data:

(a) **Storage of Electronic Data:** On Consultant’s Server

(b) **Storage of Non-Electronic Data:** Files are stored in a locked file cabinet

(c) **Personnel/Workforce Security Measures:** I am the only employee of Michael Garcia Investigation Inc. who has access to District data.

(d) **Physical Security Measures:** Files are locked

(f) All electronic District Data will be protected by the Consultant through the use of encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).

(3) **Sharing Information with Other Persons and Entities.** The Consultant will only share District Data with entities or persons authorized by the Agreement. To the extent that District Data will be shared by the Consultant with other authorized entities or persons not employed by Consultant, the Consultant will ensure that those persons or entities will be required to agree in writing that it/they will comply with all terms of the Agreement’s Plan for Security and Protection of Personally Identifiable Information, and any other Agreement provision relating to confidentiality of records and data security and privacy, including, but not limited to this Exhibit B.

(4) **Destruction/Return of Data.** Upon the termination of the Agreement for any reason, the Consultant will, as directed by the District in writing, securely destroy (“securely destroy” means taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means) or return all District Data received by the Consultant as soon as reasonably possible. The District’s decision will be made in connection with all applicable laws, including the New York Arts and Cultural Affairs Law and the Records Retention and Disposition Schedule ED-1. In connection with the secure destruction of any District Data, the Consultant will provide a certificate of destruction (form and substance satisfactory to the District) to the District.

(5) **Challenge to Accuracy of Data.** A parent or guardian, student, teacher or principal can challenge the accuracy of the Data received by the Consultant by following applicable law (e.g., Family Educational Rights and Privacy Act), employment agreements, and policies, rules and regulations. If the Consultant receives a challenge to the accuracy of Data from a parent or guardian, student, teacher or principal, the Consultant will notify the District in writing. The Consultant will not amend any Data without a written request from the District.

**HAUPPAUGE UNION FREE SCHOOL DISTRICT**

By: _____________________________
David M. Barshay
President, Board of Education

**FANNING INVESTIGATIVE SERVICES, INC.**

By: _____________________________
Name: Meil Tanya
Title: President

Date: _____________________________
#947751

Date: ____________
INSTRUCTIONS FOR PARENTS BILL OF RIGHTS

Exhibit B contains information required by New York Education Law § 2-d and includes information that makes up part of the mandated Plan for Protection of Personally Identifiable Information. It should contain detailed information about data storage and security measures. The Consultant must describe the ways it will store District Data and the specific security protections that will be used by the Consultant to protect District Data. Please note that these descriptions are part of a publically accessible document and must be written in a manner that will protect the Consultant’s data security.

Below, we list examples for each storage/security category set forth in Exhibit B. These are only examples and the Consultant must describe the specific storage methods and security protections it uses (again, the description must be written in a manner that will protect the Consultant’s data security). The amount of information included should not be limited by the space provided.

Examples:

(a) Storage of Electronic Data:
   - In the Cloud (specify types, private or public, etc.)
   - On Consultant’s server

(b) Storage of Non-Electronic Data:
   - Files stored in locked filing cabinets

(c) Personnel/Workforce Security Measures:
   - Describe internal policies regulating access to information and sharing information amongst coworkers
   - Describe policies relating to the requirement to return all data and property to the Consultant upon an employee’s separation from employment

(d) Account Management and Access Control:
   - Use of unique user-IDS
   - Use of passwords that are regularly and frequently updated
   - Use of automatic techniques to terminate a session upon specific conditions (e.g., idle time)
   - Policy to disable employee accounts upon termination from employment

(e) Physical Security Measures:
   - Describe security barriers and access controls (e.g., locking of doors, desks and filing cabinets)
   - Describe visitor policies (e.g., visitors are escorted at all times when visiting information processing and storage facilities)
TO: Board of Education
FROM: Jacqueline I. Pirro
SUBJECT: Smithtown CSD.
DATE: June 21, 2019

Provider: Smithtown CSD
Term: July 1, 2019 - June 30, 2020
Cost: $10,812
Services: Agreement between Hauppauge UFSD and Smithtown UFSD for Smithtown UFSD to continue to use the district pool for the 2019-2020 school year.
This AGREEMENT is made on the ___ day of __________, 2019 by and between the HAUPPAUGE UNION FREE SCHOOL DISTRICT ("HAUPPAUGE"), with its offices at 495 Hoffman Lane, Hauppauge, New York 11788, and the SMITHTOWN CENTRAL SCHOOL DISTRICT ("SMITHTOWN"), with its offices at 26 New York Avenue, Smithtown, New York 11787.

WITNESSETH:

1. **PURPOSE**

SMITHTOWN shall be granted use of certain facilities at the Hauppauge High School ("the High School") for SMITHTOWN’S swim club (the "Program").

2. **USAGE**

   A. HAUPPAUGE hereby agrees to license to SMITHTOWN the exclusive use of the swimming pool complex (pool and pool locker rooms) at the High School (the “Facilities”) during the Fall and Winter sports seasons. The dates for the girls’ swim team during the Fall sports season are between August 26, 2019 to November 22, 2019, inclusive. Times of use will be established by mutual agreement of the parties, and approved in writing by Hauppauge’s Athletic Director. The dates for the boys’ swim team during the Winter sports season are between November 12, 2019 and March 5, 2020, inclusive. Times of use will be established by mutual agreement of the parties, and approved in writing by Hauppauge’s Athletic Director.

   The Facilities will not be available on days that school teams are not permitted to play or practice because of religious holidays.

   Scheduling of large swim meets will be subject to HAUPPAUGE’S consent and approval of dates and facilities.

   B. SMITHTOWN shall neither encumber nor obstruct the sidewalk in front of, the entrance to, or halls and stairs of the Facilities.

   C. SMITHTOWN shall not place any sign or signs of any kind whatsoever at, in or about the entrance to the Facilities.

   D. If after termination or expiration of this Agreement, SMITHTOWN fails to remove any fixtures or other property installed by SMITHTOWN prior to such termination or expiration of this Agreement, then the said fixtures and property shall be deemed abandoned by SMITHTOWN and shall become the property of HAUPPAUGE. SMITHTOWN shall have the right to remove fixtures on termination of this Agreement provided that it repairs the Facilities to their condition prior to the installation of said fixtures.
E. In the event HAUPPAUGE closes its schools due to inclement weather or other catastrophic event, SMITHTOWN shall not use the Facilities on said date(s).

F. Any alteration or modification to the Facilities by SMITHTOWN shall not be made without the prior written consent of HAUPPAUGE.

3. LICENSE FEES

SMITHTOWN shall pay $10,812 for the use of the Facilities. Payments shall be made by SMITHTOWN to HAUPPAUGE in equal two equal installments of $5,406.00, the first of which shall be due on or before October 1, 2019 and the second installment shall be due on or before December 1, 2019.

4. DURATION

This Agreement will be for a term of one school year, commencing July 1, 2019 and terminating on June 30, 2020.

5. DISTRICT ACCESS

SMITHTOWN agrees that HAUPPAUGE and its representatives shall have the right to enter into and upon the Facilities at all reasonable times for the purpose of examining same or making such repairs or alterations therein as may be necessary for the safety and preservation thereof.

6. HAUPPAUGE'S OBLIGATIONS

A. HAUPPAUGE will supply heat, lighting, power, gas, water and maintenance of heating and lighting and plumbing equipment.

B. HAUPPAUGE shall not be required to make available and SMITHTOWN shall not use the Facilities during any period wherein SMITHTOWN shall be in default in respect to the payment of license fees after written notice by HAUPPAUGE and expiration of any cure periods set forth in this Agreement.

C. If, for any reason, the Facilities are not made available to SMITHTOWN on the days and time set forth herein, the license fee shall be reduced pro rata.

D. HAUPPAUGE assumes no liability for:

1) The property of SMITHTOWN; and

2) The personal property of any SMITHTOWN student, parent of a SMITHTOWN student, guest or swim meet participant.
E. SMITHTOWN shall use its best efforts to cause all persons affiliated with SMITHTOWN to remove all personal property from the Facilities on a daily basis.

7. **SMITHTOWN'S OBLIGATIONS**

A. SMITHTOWN, at its own expense, shall carry and maintain the following insurance during the period of this Agreement:
   1) **Commercial General Liability** including personal injury liability with limits of $1,000,000 each occurrence for bodily injury, property damage and personal injury and $2,000,000 in the aggregate.
   2) **Workers' Compensation and Employers Liability** providing statutory limits as required by the State of New York.
   3) **Umbrella Liability** providing follow form over underlying policies with limits of $4,000,000 each occurrence/aggregate.

B. SMITHTOWN shall provide HAUPPAUGE with the following information:
   1) A complete notarized roster of students/participants in the Program, including their names, addresses, grade levels and schools of attendance, which roster shall be updated biannually;
   2) Contracts which parents sign in order to participate in the Program;
   3) Any brochures, pamphlets or other materials that are used by SMITHTOWN or its agents to publicize and promote the Program;
   4) Proof of insurance coverage as outlined elsewhere in this Agreement; and
   5) Copy of SMITHTOWN’S sexual abuse/harassment policy and reporting mechanisms.

C. SMITHTOWN shall provide all materials, labor, equipment and other items reasonable and necessary for the operation of the Program.

D. SMITHTOWN shall at all times maintain current and effective State and County registrations and licenses necessary to operate the Program and provide HAUPPAUGE with copies thereof.

E. SMITHTOWN shall have a New York State Certified Lifeguard on the deck of the swimming pool at all times during which it is utilizing the Facilities. Copies of the certification of each lifeguard used shall be provided to HAUPPAUGE.
F. All individuals serving in the capacity as coach of the Program and employed by SMITHTOWN shall have CPR/AED certification. Copies of the certification shall be provided to HAUPPAUGE as per New York State Sanitary Code Requirements.

G. SMITHTOWN shall maintain a pool log of its use of the Facilities and shall forward a copy of said log to HAUPPAUGE every Friday during the term of this Agreement as required by New York State Sanitary Code.

H. SMITHTOWN shall supply adequate personnel to provide supervision of the Facilities, including the locker rooms, at all times of usage.

I. HAUPPAUGE is not responsible for any loss, theft or damage to any SMITHTOWN personal property stored in locker rooms before, during or after periods of authorized use.

J. SMITHTOWN shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of the federal, state and local governments and of any and all their departments and bureaus applicable to the Facilities, for the correction, prevention, and abatement of nuisances or other grievances in, upon or connected with the Facilities during said term; and shall also promptly comply with and execute all rules, orders and regulations of the New York Board of Fire Underwriters, or any other similar body, at SMITHTOWN'S own cost and expense.

K. SMITHTOWN shall use its best efforts to prevent persons from doing anything in the Facilities, or from bringing anything into the Facilities which will in any way increase the rate of fire insurance on the Facilities. SMITHTOWN shall not use the Facilities or any part thereof in a way which would cause an increase in the rate of fire insurance on said building.

L. During the use of the Facilities, SMITHTOWN shall supervise the pool and locker rooms and use its best efforts:

1) To prevent the wearing of street shoes on the pool deck;

2) To prevent the bringing of food or beverage in the stands or on the pool deck;

3) To make sure all personal property is removed from the pool deck and stands on a daily basis;

4) In the event of a spillage on the pool deck or within the locker rooms, to notify the building custodian for clean-up; and
5) In the event of the discharge of bodily fluids in the pool, to clear the pool and notify the custodial staff.

M. No permanent lock may be placed on individual pool locker room lockers. Unauthorized locks are subject to removal and disposal of the contents without warrant.

8. TERMINATION

A. This Agreement may be terminated by either party upon thirty (30) days' prior written notice to the other party.

B. If SMITHTOWN defaults in the payment of the license fees, or if, without the consent of HAUPPAUGE, SMITHTOWN shall assign this Agreement, or if default be made in the performance of any of the covenants and agreements contained in this Agreement on the part of SMITHTOWN to be kept and performed, or if SMITHTOWN shall fail to comply with any of the statutes, ordinances, rules, orders, regulations and requirements of the federal, state and local governments or of any and all of their departments and bureaus, applicable to the Facilities, HAUPPAUGE shall issue a written notice to SMITHTOWN stating the nature of the alleged breach or violation and shall provide SMITHTOWN with a ten (10) business day period to cure such breach. If SMITHTOWN fails to cure such breach within ten (10) business days, HAUPPAUGE may terminate this Agreement and this Agreement shall expire on the date fixed in such notice as if the said date were the date originally fixed in this Agreement for the expiration hereof.

C. If this Agreement is terminated, the license fees shall be reduced pro rata.

9. SMITHTOWN ASSIGNMENT

SMITHTOWN shall not assign this Agreement or permit any other organization, firm, person, group or entity to occupy or use any portion of the Facilities without the prior written approval of HAUPPAUGE.

10. REPAIRS

SMITHTOWN shall replace, at its own expense, any and all glass broken in and about the Facilities as a result of its use of the Facilities and will make all necessary repairs resulting from the acts of SMITHTOWN, its agents, servants, employees, students or guests. SMITHTOWN agrees to surrender the Facilities at the end of this Agreement in good condition and broom clean, except for necessary structural repairs and normal use.
11. **DAMAGE**

A. SMITHTOWN shall be responsible for District and Health Department notification of any serious injury or death, in accordance with New York Sanitary Code Requirement.

B. SMITHTOWN must give HAUPPAUGE prompt notice of fire, accident, damage or dangerous or defective condition. If the Facilities cannot be used because of fire or other casualty, SMITHTOWN is not required to pay any license fees for the time the Facilities are unusable. If part of the Facilities cannot be used and SMITHTOWN continues to use the available part, SMITHTOWN must pay a license fee agreed to by the parties, for the usable part. HAUPPAUGE shall have the right to decide which part of the Facilities is usable. HAUPPAUGE need only repair the damaged structural parts of the Facilities. HAUPPAUGE is not required to repair or replace any equipment, fixtures, furnishings or decorations unless originally installed by HAUPPAUGE. HAUPPAUGE is not responsible for delay due to settling insurance claims, obtaining estimates, labor and supply problems or any other cause not fully under HAUPPAUGE’S control.

C. If the fire or other casualty is caused by an act or neglect of SMITHTOWN, SMITHTOWN’S employees or invitees, then all repairs will be made at SMITHTOWN’S expense HAUPPAUGE has the right to demolish or rebuild the Facilities if there is substantial damage by fire or other casualty. HAUPPAUGE may cancel this Agreement within thirty (30) days after the substantial fire or casualty by giving SMITHTOWN written notice of HAUPPAUGE’S intention to demolish or rebuild. This Agreement will end thirty (30) days after HAUPPAUGE’S cancellation notice to SMITHTOWN. SMITHTOWN must pay all license fees due to the date of the fire or casualty. If this Agreement is canceled, HAUPPAUGE is not required to repair the Facilities. The cancellation does not release SMITHTOWN of liability in connection with the fire or casualty.

12. **INDEMNIFICATION**

A. SMITHTOWN covenants and agrees to indemnify and save harmless HAUPPAUGE, its officers, agents, servants, and employees, from any and all liability including claims for damages arising out of bodily injury and death and damage to property resulting from the acts or omissions of SMITHTOWN, its agents, servants, employees, and students in the
operation of the Program in the Facilities, and the use of the Facilities or of any equipment or other personal property contained therein.

B. HAUPPAUGE shall not be liable for damages or injury to person or property unless written notice of any defect alleged to have caused such damage or injury shall have been given to HAUPPAUGE a sufficient time before such occurrence to have reasonably enabled HAUPPAUGE to correct such defect.

13. **NO WAIVER**

The failure of HAUPPAUGE to insist upon strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of any rights or remedies that HAUPPAUGE may have, and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

14. **MODIFICATION**

This instrument may not be changed, modified, discharged or terminated orally.

15. **NOTICES**

All notices, demands, requests, consents, approvals, offers, statements and other instruments or communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when delivered, or when mailed by first class registered or certified mail, addressed (a) if to SMITHTOWN, at its address set forth above, or at such other address as SMITHTOWN shall have furnished to HAUPPAUGE in writing, or (b) if to HAUPPAUGE, at the address set forth above.

16. **RIGHT OF ENTRY**

HAUPPAUGE hereby agrees that upon execution of this Agreement, SMITHTOWN shall have the right to enter and use the Facilities.

17. **GOVERNING LAW**

This Agreement is made and entered into in the State of New York and shall in all respects be interpreted, enforced and governed under the laws of that State. The Language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning and not strictly for or against any of the parties, provided, however, that SMITHTOWN recognizes that this Agreement was prepared by HAUPPAUGE as a courtesy to SMITHTOWN and for the parties' mutual benefit, and that the determination of questions regarding the Agreement shall not be resolved against HAUPPAUGE because it prepared the Agreement.
18. **SEVERABILITY**

   Should any provision of this Agreement be declared or determined by any court or agency to be illegal, invalid or unenforceable, then the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal, invalid or unenforceable part, term or provision shall be deemed not a part of this Agreement.

19. **COMPLIANCE WITH NYS REQUIREMENTS**

   SMITHTOWN shall be bound by the requirements of the New York State Health Department for operation/use of a swimming pool. SMITHTOWN participants, porters and staff shall be bound by HAUPPAUGE'S Code of Conduct at all times (a copy of which is attached hereto).

20. **RATIFICATION**

   This Agreement is subject to ratification by HAUPPAUGE'S Board of Education and SMITHTOWN'S Board of Education.

21. **COMPLETE AGREEMENT**

   This Agreement contains all of the terms and conditions agreed upon by the parties hereto in regard to the subject matter hereof, and no other agreement, oral or otherwise, shall be deemed to exist or to bind either of the parties hereto or to vary any of the terms and conditions contained herein.

22. **PARAGRAPH HEADINGS**

   The headings denoting the separately numbered paragraphs of this Agreement are specifically set forth for reference purposes only and are not in any way to be deemed explanatory of or limiting of the contents of any paragraph or subparagraph. Furthermore, said headings are not to be deemed part of this Agreement for purposes of interpretation, litigation or as defining or limiting the rights or obligations of the parties.
IN WITNESS WHEREOF, the parties hereto have executed this agreement on the latter day and year written below.

BOARD OF EDUCATION OF THE
HAUPPAUGE UNION FREE
SCHOOL DISTRICT

By: ______________________
David Barshay, President

Date: ______________________, 2019

BOARD OF EDUCATION OF THE
SMITHTOWN CENTRAL
SCHOOL DISTRICT

By: ______________________
Vice President

Date: ______________________, 2019
To: Jacqueline Pirro, Assistant Superintendent for Business & Operations
From: Carolyn Biondi, Purchasing Agent
Re: Lease of Pitney Bowes Folder for Print Shop
Date: 6/13/2019

Hauppauge Public Schools currently leases a paper folder from Pitney Bowes which is used in our print shop. The lease ends on June 30, 2019. Pitney Bowes has offered to renew our lease for the folder from July 1, 2019 through June 30, 2025. The price is $126.62 per month for the 60 month term and is billed quarterly. For comparison, a 12 month lease would be billed at $345.12 per month. I recommend that we lease the folder for the longer 60 month term since the cost savings to the district would be significant.
# State and Local Fair Market Value Lease

## Your Business Information

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<tr>
<th>Field</th>
<th>Information</th>
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<tbody>
<tr>
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<td>HAUPPAUGE UNION FREE SCHOOL DIST 6</td>
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<tr>
<td>Tax ID # (FEIN/TIN)</td>
<td>116001704</td>
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<tr>
<td>Sold-To: Address</td>
<td>500 Lincoln Blvd, Hauppauge, NY, 11788-2902, US</td>
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<tr>
<td>Sold-To: Contact Name</td>
<td>Lark Dimparo</td>
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<tr>
<td>Sold-To: Contact Phone #</td>
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<td>Bill-To: Address</td>
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## Your Business Needs

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## Your Payment Plan

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<td>60</td>
<td>$126.62</td>
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</table>

*Does not include any applicable sales, use, or property taxes which will be billed separately.

( ) Tax Exempt Certificate Attached
( ) Tax Exempt Certificate Not Required
( ) Purchase Power® transaction fees included
( ) Purchase Power® transaction fees extra

Lease to commence 7/1/19
Non-Affiliations. You warrant that you have funds available to make all payments until the end of your current fiscal period, and shall use your best efforts to obtain funds to make all payments in each subsequent fiscal period through the end of your lease term. If your appropriation request to your legislative body, of funding authority ("Governing Body") for funds to make the payments is denied, you may terminate the lease on the last day of the fiscal period for which funds have been appropriated, upon (i) submission of documentation reasonably satisfactory to us evidencing the Governing Body's denial of an appropriation sufficient to continue the lease for the next succeeding fiscal period, and (ii) satisfaction of all charges and obligations under the lease incurred through the end of the fiscal period for which funds have been appropriated, including the return of the equipment at your expense.

By signing below, you agree to be bound by all the terms of this Agreement, including the Pitney Bowes Terms (Version 119), which are available at http://www.pbo.com/p坑neyBOWES/terms and are incorporated by reference. This lease will be binding on us after we have completed our credit and documentation approval process and have signed below. This lease requires you either to provide proof of insurance or participate in the ValueMAX® equipment protection program (see Section 6 of the State and Local Fair Market Value Lease Terms) for an additional fee. If software is included in the Order, additional terms apply which are available by clicking on the hyperlink for that software located at http://www.pitneybowes.com/ful/lease-terms-of-use/software-subscription-terms-and-conditions.html. Those additional terms are incorporated by reference.

Lessee Signature

Print Name

Title

Date

Email Address:

Sales Information

John Goetz

Account Rep Name

Email Address

PBIFS Acceptance

Print Name

Title

Date
TO: Board of Education
FROM: Jacqueline I. Pirro
SUBJECT: Suffolk Transportation Systems, Inc.
DATE: June 21, 2019

Provider: Suffolk Transportation Systems, Inc.
Term: July 1, 2019 – August 31, 2019
Cost: Estimated at $288,619
Services: Summer 2019 Transportation per terms and conditions of the transportation RFP.
The State Education Department  
Transportation Unit, Room 1075 EBA  
Albany, New York 12234

SUMMER TRANSPORTATION  
EXTENSION OF TRANSPORTATION CONTRACT

JACQUELINE PIRRO  
Tel: 631.761.8211  
Email: piroj@hauppauge.k12

HAUPPAUGE UNION FREE SCHOOL DISTRICT  
School District/BOCES

495 HOFFMAN LANE  
Street or P.O. Box

HAUPPAUGE  NY  11788

WHEREAS a transportation contract agreement was made on JUNE 5, 2012  
by and between

HAUPPAUGE UNION FREE SCHOOL DISTRICT  
(Name of School District or BOCES)

party of the first part and SUFFOLK TRANSPORTATION SYSTEMS, INC.  
(Contractor)

NOW, THEREFORE, pursuant to the provisions of Section 305, subdivision 14 of the Education Law and Section 156.5 of the Regulations of the Commissioner of Education, the parties hereto mutually agree to extend the contract for a period commencing

JULY 1, 2019 and ending AUGUST 31, 2019.

All of the items of said contract shall remain in full force and effect.

IT IS FURTHER agreed that for services rendered during the period of this extension, the party of the first part shall pay the party of the second part the total annual sum of $ N/A or

$ SEE ATTACHED (unit cost) if on a per-bus, per-pupil, per-mile, or other unit cost basis determined as follows

(you must show in detail using prior year figures):

Total Anticipated Annual Cost ESTIMATED @ $288,619

IN WITNESS WHEREOF, the parties hereto have executed this extension of agreement this __________ day of __________, 20__.

Party of the First Part  
(Signature of Trustee or President of Board of Education)

Party of the Second Part  
(Signature of Contractor)

COMPLIANCE CERTIFICATION. I certify that this contract extension has been approved by the Superintendent of Schools in accordance with the provisions of Education Law, section 3625.

CPI "Pass-Thru". Boards of education may pay a contractor, in excess of the CPI, for the cost of qualifying criminal history and certain driver testing fees. (See subdivision (e) on reverse).

SUBMIT ORIGINAL TO THE STATE EDUCATION DEPARTMENT, RETAIN A COPY FOR YOUR SCHOOL DISTRICT RECORDS.

8/18
Regulations of the Commissioner of Education

Section 156.5 Annual extensions of transportation contracts.

(a) Annual extensions of contracts shall be prepared on forms prescribed by the commissioner; such extensions shall be filed with and approved by the commissioner and are subject to all laws, rules and regulations pertaining to the filing of transportation contracts.

(b) Only contracts awarded in accordance with the competitive bidding requirements of subdivision 14 of section 305 of the Education Law may be extended. (NOTE: Section 305(14) also authorizes extensions of contracts awarded through a request for proposals.)

(c) Annual extensions of fixed-price contracts, contracts based upon unit rates, such as per-bus, per-pupil or per-mile, and contracts based upon a combination of a fixed price and unit rate may provide for increases in such fixed prices and/or unit rates not to exceed the contractual amount paid in the preceding year by more than the increase in the regional consumer price index for the 12-month period ending on May 31st immediately preceding the commencement of the contract extension.

(d) Each district proposing to extend a contract shall maintain for a period of six years after expiration or termination of the contract extension or six years after final payment under the contract extension satisfactory evidence of the increase in the cost of the contractor's operation during the 12-month period immediately preceding the month in which the contract terminates. Upon the request of the commissioner, each district shall file such evidence with the commissioner. (NOTE: Contractor must complete a Cost Justification Form whenever there is any increase in the amount paid by the district when extending a contract.)

(e) Each district proposing to extend a contract in an amount which is in excess of the maximum increase allowed by use of the consumer price index for the N.Y., N.Y., Northeastern, N, J. area, based upon the index for all urban consumers (CPI-U), shall file with the commissioner satisfactory documentation of the actual cost of qualifying criminal history and driver licensing testing fees attributable to special requirements for drivers of school buses pursuant to Article 19 and 19-A of the Vehicle and Traffic Law. (NOTE: In addition, a board of education may agree to an amount in excess of the consumer price index for the actual cost of diagnostic tests, physical performance tests, and drug and alcohol tests. A Cost Justification must be filed with the Department whenever a board of education agrees to pay a contractor in excess of CPI. Where there are no such excess costs, the form is not filed, but is retained in the district.)

Addendums: Please notify the Department by letter when additions are made to a contract extension after it has been filed with the Department. Such additions must be authorized by the contract specifications.

**ONLY COMPETITIVELY CONTRACTS MAY BE EXTENDED.**
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<th>Item</th>
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<th>2018 Per Day</th>
<th>1.50% SUMMER 2019 Using 2018 Qty</th>
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<td>B5 Bus</td>
<td>0.00</td>
<td>$464.93</td>
<td></td>
</tr>
<tr>
<td>DA4 Driver Assistant</td>
<td>34.00</td>
<td>$159.05</td>
<td>$81,115.50</td>
</tr>
<tr>
<td>DA5 Driver Assistant</td>
<td>2.00</td>
<td>$159.05</td>
<td>$9,543.00</td>
</tr>
<tr>
<td>Van O/T per 30 minutes</td>
<td></td>
<td>$48.94</td>
<td></td>
</tr>
<tr>
<td>Bus O/T per 30 minutes</td>
<td></td>
<td>$58.11</td>
<td></td>
</tr>
<tr>
<td>Driver Asst O/T per 30 minutes</td>
<td></td>
<td>$24.47</td>
<td></td>
</tr>
<tr>
<td>V4 Van - SHARE CREDIT</td>
<td></td>
<td>$336.46</td>
<td>(34,706.98)</td>
</tr>
<tr>
<td>DRIVER ASSISTANT - SHARE CREDIT</td>
<td></td>
<td>$159.05</td>
<td>(9,402.00)</td>
</tr>
<tr>
<td><strong>ESTIMATED TOTAL</strong></td>
<td></td>
<td></td>
<td>$288,618.62</td>
</tr>
</tbody>
</table>
TO: Board of Education
FROM: Jacqueline I. Pirro
SUBJECT: Suffolk Transportation Systems, Inc.
DATE: June 21, 2019

Provider: Suffolk Transportation Systems, Inc.
Term: September 1, 2019 – June 30, 2020
Cost: Estimated at $3,115,426
Services: Home to School Transportation for the 2019-2020 school year per terms and conditions of the transportation RFP.

JIP: Is
The State Education Department
Transportation Unit, Room 475 EBA
Albany, New York 12234

FORM CE

EXTENSION OF CONTRACT FOR PUPIL TRANSPORTATION
(Only Competitively Bid Contracts May Be Extended)

Check if applicable:
( ) Cost Justification Form filed with Dept. Only for a CPI Pass-Thu. (See Reverse)
( ) Special Education Pupil Trans required as a related service
( ) Contract for bus maintenance only.
( ) District will supply contractor with fuel.
Specifications include:
( ) Provision for attendants, escorts or monitors.
( ) Clause for increasing or decreasing service.

<table>
<thead>
<tr>
<th>JACQUELINE PIRRO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Person</td>
</tr>
<tr>
<td>HAUPPAUGE UNION FREE SCHOOL DISTRICT</td>
</tr>
<tr>
<td>495 HOFFMAN LANE</td>
</tr>
<tr>
<td>PO BOX 6006</td>
</tr>
<tr>
<td>Street or P.O. Box</td>
</tr>
<tr>
<td>HAUPPAUGE</td>
</tr>
<tr>
<td>NY</td>
</tr>
<tr>
<td>11788</td>
</tr>
</tbody>
</table>

WHEREAS a transportation contract agreement was made on JUNE 5, 2012, by and between

| HAUPPAUGE UNION FREE SCHOOL DISTRICT |
| (Name of School District or BOCES) |
| County of SUFFOLK, N.Y., |
| party of the first part and |
| SUFFOLK TRANSPORTATION SYSTEMS, INC. |
| (Contractor) |

NOW, THEREFORE, pursuant to the provisions of Section 305, subdivision 14 of the Education Law and Section 156.5 of the Regulations of the Commissioner of Education, the parties hereto mutually agree to extend the contract for a period commencing SEPTEMBER 1, 2019 and ending JUNE 30, 2020.

All of the items of said contract shall remain in full force and effect.

IT IS FURTHER agreed that for services rendered during the period of this extension, the party of the first part shall pay the party of the second part the total annual sum of $3,115,426 or

SEE ATTACHED if on a per-bus, per-pupil, per-mile, or other unit cost basis determined as follows (you must show in detail using prior year figures):

Total Anticipated Annual Cost

IN WITNESS WHEREOF, the parties hereto have executed this extension of agreement this day of ____________ , 20______.  

Party of the First Part  
(Signature of Trustee or President of Board of Education)

Party of the Second Part  
(Signature of Contractor)

COMPLIANCE CERTIFICATION. I certify that this contract extension has been approved by the Superintendent of Schools in accordance with the provisions of Education Law, section 3625.

Approval Date: ____________  
(Date of Superintendent’s Approval)

CPI “Pass-Thu”. Boards of education may pay a contractor, in excess of the CPI, for the cost of qualifying criminal history and certain driver testing fees. (See subdivision (e) on reverse).

SUBMIT ORIGINAL TO THE STATE EDUCATION DEPARTMENT, RETAIN A COPY FOR YOUR SCHOOL DISTRICT RECORDS.
Regulations of the Commissioner of Education

Section 156.5 Annual extensions of transportation contracts.

(a) Annual extensions of contracts shall be prepared on forms prescribed by the commissioner; such extensions shall be filed with and approved by the commissioner and are subject to all laws, rules and regulations pertaining to the filing of transportation contracts.

(b) Only contracts awarded in accordance with the competitive bidding requirements of subdivision 14 of section 305 of the Education Law may be extended. (NOTE: Section 305(14) also authorizes extensions of contracts awarded through a request for proposals.)

(c) Annual extensions of fixed-price contracts, contracts based upon unit rates, such as per-bus, per-pupil or per-mile, and contracts based upon a combination of a fixed price and unit rate may provide for increases in such fixed prices and/or unit rates not to exceed the contractual amount paid in the preceding year by more than the increase in the regional consumer price index for the 12-month period ending on May 31st immediately preceding the commencement of the contract extension.

(d) Each district proposing to extend a contract shall maintain for a period of six years after expiration or termination of the contract extension or six years after final payment under the contract extension satisfactory evidence of the increase in the cost of the contractor's operation during the 12-month period immediately preceding the month in which the contract terminates. Upon the request of the commissioner, each district shall file such evidence with the commissioner. (NOTE: Contractor must complete a Cost Justification Form whenever there is any increase in the amount paid by the district when extending a contract.)

(e) Each district proposing to extend a contract in an amount which is in excess of the maximum increase allowed by use of the consumer price index for the N.Y., N.Y., Northeastern, N, J. area, based upon the index for all urban consumers (CPI-U), shall file with the commissioner satisfactory documentation of the actual cost of qualifying criminal history and driver licensing testing fees attributable to special requirements for drivers of school buses pursuant to Article 19 and 19-A of the Vehicle and Traffic Law. (NOTE: In addition, a board of education may agree to an amount in excess of the consumer price index for the actual cost of diagnostic tests, physical performance tests, and drug and alcohol tests. A Cost Justification must be filed with the Department whenever a board of education agrees to pay a contractor in excess of CPI. Where there are no such excess costs, the form is not filed, but is retained in the district.)

Addendums: Please notify the Department by letter when additions are made to a contract extension after it has been filed with the Department. Such additions must be authorized by the contract specifications.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>V3 Van</td>
<td>0.00</td>
<td>$ 6,587.31</td>
<td>$ 65,873.10</td>
<td>$ 65,873.10</td>
</tr>
<tr>
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<td>$ 6,587.31</td>
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<td>$ 1,284,525.45</td>
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<tr>
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<td>7.00</td>
<td>$ 7,023.61</td>
<td>$ 70,236.10</td>
<td>$ 491,652.70</td>
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<tr>
<td>V6 Van</td>
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<td>$ 7,023.61</td>
<td>$ 70,236.10</td>
<td>$ 421,416.60</td>
</tr>
<tr>
<td>V7 Van</td>
<td>0.00</td>
<td>$ 7,625.78</td>
<td>$ 76,257.80</td>
<td>$ -</td>
</tr>
<tr>
<td>V8 Van</td>
<td>0.00</td>
<td>$ 7,625.78</td>
<td>$ 76,257.80</td>
<td>$ -</td>
</tr>
<tr>
<td>W3 Van</td>
<td>0.00</td>
<td>$ 6,825.29</td>
<td>$ 68,252.90</td>
<td>$ -</td>
</tr>
<tr>
<td>W4 Van</td>
<td>4.00</td>
<td>$ 6,825.29</td>
<td>$ 68,252.90</td>
<td>$ 273,011.60</td>
</tr>
<tr>
<td>W5 Van</td>
<td>2.00</td>
<td>$ 7,625.78</td>
<td>$ 76,257.80</td>
<td>$ 152,515.60</td>
</tr>
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<td>$ 7,625.78</td>
<td>$ 76,257.80</td>
<td>$ 76,257.80</td>
</tr>
<tr>
<td>T4 TAHOE</td>
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<td>$ 5,928.58</td>
<td>$ 59,285.80</td>
<td>$ 118,571.60</td>
</tr>
<tr>
<td>DA Driver Assistant - Van</td>
<td>21.50</td>
<td>$ 3,173.17</td>
<td>$ 31,731.70</td>
<td>$ 682,231.55</td>
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<tr>
<td>IDA Driver Assistant - Van</td>
<td>3.00</td>
<td>$ 3,173.17</td>
<td>$ 31,731.70</td>
<td>$ 95,195.10</td>
</tr>
<tr>
<td>DA Driver Assistant - Bus</td>
<td>0.00</td>
<td>$ 3,519.58</td>
<td>$ 35,195.80</td>
<td>$ -</td>
</tr>
<tr>
<td>Van O/T per 30 minutes</td>
<td></td>
<td>$ 5.86</td>
<td>$ 58.60</td>
<td>$ -</td>
</tr>
<tr>
<td>Driver Asst O/T per 30 minutes</td>
<td></td>
<td>$ 2.93</td>
<td>$ 29.30</td>
<td>$ -</td>
</tr>
<tr>
<td>Video Camera/one time</td>
<td></td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>Van Rental/day</td>
<td></td>
<td>$ 11.06</td>
<td>$ 110.60</td>
<td>$ -</td>
</tr>
<tr>
<td>V4 Van - Share Credit</td>
<td></td>
<td></td>
<td>$ (404,906.96)</td>
<td></td>
</tr>
<tr>
<td>DA - Share Credit</td>
<td></td>
<td></td>
<td>$ (75,045.47)</td>
<td></td>
</tr>
<tr>
<td>Estimated Total</td>
<td></td>
<td></td>
<td></td>
<td>$ 3,115,425.57</td>
</tr>
</tbody>
</table>
School Food Authority (SFA) Required Checklist
2019-2020 Extension of Food Service Contract

This Checklist and Extension must be completed and signed by an authorized SFA Representative

Contract Type II- Contracts Originating 2018-2019 Only

Extension Year: [✓] 2  [ ] 3  [ ] 4  [ ] 5

SFA: Hauppauge UFSD
SFA Business Official: Jacqueline I. Pirro
LEA Code: 580506030000
Telephone Number: 631-761-8212

NOTE: Use this required checklist to ensure that all documents you submit are complete (no blanks). If an incomplete document is received and or completed in pencil, it will be returned to the SFA and the SFA may be placed on reimbursement hold. Return this completed checklist with the extension.

SECTION 1  (ORIGINAL CONTRACT INFORMATION)
- [✓] Original agreement date; SFA name; county; FSMC name
- [✓] Commencing and ending dates (month/day/year; must agree with original contract)
- [✓] Original Per Meal Bid Price
- [✓] Guaranteed Return

SECTION 2  (2019-2020 EXTENSION INFORMATION)
- [✓] Commencing and ending dates (month/day; must agree with original contract)
- [✓] Appropriate month’s Consumer Price Index (CPI-U) applied to previous bid year’s price
- [✓] Current Per Meal Bid Price
- [✓] Annual Per meal price
- [✓] Guaranteed Return
- [✓] Summer Food Service Program
- [✓] Date agreement signed
- [✓] Signature of BOE President/Executive Director and FSMC Authorized Signatory; Sign in Blue Ink
- [✓] Debarment Option Form  [ ] A or  [✓] B *
- [✓] Completed Lobbying Certificate
- [✓] Completed Disclosure of Lobbying Activities Form (if required)

Send one original COMPLETE extension of contract to NYSED (NO faxes will be accepted.) It is strongly suggested this be returned by certified mail - return receipt requested.

Print Name: ___________________________ Title: ___________________________
Signature: ___________________________ Telephone Number: ___________________________

MUST BE SIGNED IN BLUE INK ONLY

SED APPROVED BY: ___________________________ NYSED Official
Date ___________________________

NYSED Docutrax
INSTRUCTIONS

This section represents a restatement of information from the original Agreement.

Any district that bids under Option A should report the annual return to the district guaranteed by the FSMC in the space provided. Fill in all blanks with required information or N/A if not applicable. NO BLANKS!

An original agreement* having been made on Jul 31, 2018 by and between Hauppauge UFSD

School Food Authority

in the County of Suffolk, New York, party of the first part, and Whitsons School Nutrition Corp.

Food Service Company

party of the second part, under and pursuant to the provisions of Section 1709, subdivision 22 of Education Law and Section 210.16, Part 7 of the Consolidated Federal Regulations for the period commencing on Aug 1, 2018 and ending on Jun 30, 2019.

TYPE II ONLY

Enter the per meal bid price

<table>
<thead>
<tr>
<th>Breakfast</th>
<th>Lunch</th>
<th>Snack</th>
<th>Dinner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Meal Rate 2.867</td>
<td>Per Meal Rate 2.867</td>
<td>Per Meal Rate 0</td>
<td>Per Meal Rate 0</td>
</tr>
</tbody>
</table>

Jails or RCCI's (Per Person Per Day)
Enter the costs per person, per day.

Per Person Per Day Bid Price 0

GUARANTEED RETURN: If contract was bid under Option A the party of the second part shall pay the party of the first part an annual amount of $5,000 (Not subject to CPI-U Increase).

SECTION II

Following the provision of Section 305, subdivision 14 of Education Law and Section 114.2 of the Regulations of the Commissioner of Education and Section 210.16, Part 7 of the Consolidated Federal Regulations, the parties hereto mutually agree to extend the agreement for a period of one year commencing on Jul 1, 2019 and ending on Jun 30, 2020 with the first day of food service being Sep 3, 2019.
This section should be completed by the School Food Authority entering into a contract extension and refers to the upcoming school year, 2019-2020. The percentage increase must be based on the Consumer Price Index for Urban (CPI-U) consumers in the New York-Northeastern New Jersey Area. The CPI-U for the 12-month period immediately preceding the month in which the contract ends must be used. (Education law 305.)

It is further agreed that the (CPI-U) percentage of increase in cost, if any, for services rendered during the one year period of this extension will be _______ 1.5 % _______. Find current CPI-U at https://www.bls.gov/regions/new-york-new-jersey/news-release/consumerpriceindex_newyorkarea.htm

The party of the first part shall pay the party of the second part:

**TYPE II**

Enter prior year per meal rate. (Prior per meal rate * ((CPI-U/100)+1)) = Total Current Year Rate

<table>
<thead>
<tr>
<th></th>
<th>Prior Year</th>
<th>This Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breakfast</td>
<td>2.867</td>
<td>2.91</td>
</tr>
<tr>
<td>Lunch</td>
<td>2.867</td>
<td>2.91</td>
</tr>
<tr>
<td>Snack</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Dinner</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

**TYPE II - Jails or RCCI's ONLY (Per Person Per Day)**

Enter the prior per meal rate. (Prior Per Meal Rate * ((CPI-U /100)+1)) = Current Per Meal Rate

<table>
<thead>
<tr>
<th>Prior Year</th>
<th>This Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Fee Per Person</td>
<td>0</td>
</tr>
</tbody>
</table>

**A la Carte Conversion Factor**

<table>
<thead>
<tr>
<th></th>
<th>2018-2019</th>
<th>2019-2020</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$3.70</td>
<td>$3.79</td>
</tr>
</tbody>
</table>

**GUARANTEED RETURN:** $5,000 (must agree with page 2 or original contract, if applicable)

Does your SFA participate in the Summer Food Service Program? ☐ Yes ☑ No

The extension has been determined as follows:

(1) The costs herein shall not exceed the contracted cost of the preceding year by more than the percentage increase of the Consumer Price Index for Urban consumers for New York-Northern New Jersey.

(2) The SFA and FSMC agree to follow the required food based menu plan, standards and timeline established by USDA. (Guidance Attached to Extension)

(3) All of the items of said agreement shall remain in full force and effect.

In witness whereof, the parties hereto have executed this extension of agreement.

Original Signature Must be Provided by Both Parties (BLUE INK ONLY)

<table>
<thead>
<tr>
<th>Party of the First Part - Board of Education President/Executive Director</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Party of the Second Part - FSMC Authorized Signatory</td>
<td>Date</td>
</tr>
</tbody>
</table>

DEBARMENT OPTION A - SFA

__________________________ (Name and Title) checked the excluded parties list system on

http://www.epls.gov and this prospective contractor ________________________________ (Name of Contractor)

was not on the list as being suspended, debarred or disqualified.

__________________________ Original Signature • SFA Representative

Date

Please Note the Following Regarding Debarment Option A or Debarment Option B:

Although we have included a list of the FSMC’s that have not been debarred (with an asterisk) as a part of our annual FSMC web posting, it was based on our office checking on the Excluded Parties List System (EPLS) website as of January 2018. However, since by the time you go out to bid or extend, circumstances regarding the FSMC’s debarment status may have changed, it is your responsibility to check the list before submitting your contract or extension to SED for approval.

Therefore, either:
The SFA must look on the EPLS website and complete the Debarment Option A form to be submitted with the Contract/Extension packet.

OR

The FSMC must complete the Debarment Option B form to be submitted with the Contract/Extension packet.

Please note: only the Debarment Option A or Debarment Option B form needs to be submitted with your contract or extension - do not submit both forms.
INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT

Required for FSMC's not listed on the 2018-2019 Management Company Listing.

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person in which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposals,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.

8. Nothing contained in the foregoing shall be construed to required establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available in the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

SFAs are required to ensure that all sub-contractors and sub-grantees are neither excluded nor disqualified under the suspension and debarment rules found at 2 CFR 200.212 by doing any one of the following:

- Checking the Excluded Parties List found at the System for Award Management www.SAM.gov;
- Collecting a certification that the entity is neither excluded nor disqualified. Since a Federal certification form is no longer available, the grantee or sub-grantee electing this method must devise its own;
- Including a clause to this effect in the sub-grant agreement and in any procurement contract expected to equal or exceed $25,000, awarded by the grantee or a sub-grantee under its grant or sub-grant;
- Sub-grantee and contractors must obtain a DUNS Number. All Federal Government awards are required to have a DUNS number. To obtain a DUNS number, contact Dun and Bradstreet at 1- or visit their website at https://update.dnb.com/requestoptions.asp. There is no charge for a DUNS number. The DUNS number serves as a means of tracking and identifying applications for Federal assistance and is required on all applications for Federal assistance.

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension. 2 CFR 200.212 Suspension and Debarment. The regulations were published as Part III of the December 26, 2013, Federal Register (pages 78590-78691). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON NEXT PAGE)

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name

Whitkins School Nutrition Corp.

PR/Award Number or Project Name

BETH BUNSTE, CFO

Name and Title(s) of Authorized Representative(s)

Signature (Blue Ink Only)

Date

6/27/19
Instructions for Form 7

INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

DEBARMENT OPTION B

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
REQUIRED CERTIFICATION REGARDING LOBBYING

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding $100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub awards exceeding $100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Whitsons School Nutrition Co.
1800 Noter Parkway
Islandia, NY 11749

Name/Address of Organization

Beth Burnster, CEO

Name/Title of Submitting Official

Signature (Sign in Blue Ink Only) 6/27/19 Date
FORM 7B

DISCLOSURE OF LOBBYING ACTIVITIES
Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

<table>
<thead>
<tr>
<th>1. Type of Federal Action:</th>
<th>2. Status of Federal Action:</th>
<th>3. Report Type:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. contract</td>
<td>a. bid/offer/applications</td>
<td>a. initial filing</td>
</tr>
<tr>
<td>b. grant</td>
<td>b. initial award</td>
<td>b. material change</td>
</tr>
<tr>
<td>c. cooperative agreement</td>
<td>c. post-award</td>
<td>for Material Change only:</td>
</tr>
<tr>
<td>d. loan</td>
<td></td>
<td>year__________quarter______</td>
</tr>
<tr>
<td>e. loan guarantee</td>
<td></td>
<td>date of last report</td>
</tr>
<tr>
<td>f. loan insurance</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Name and address of Reporting Entity:</th>
<th>5. If Reporting Entity in #4 is Subawardee, Enter Name and Address of Prime:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime</td>
<td>Congressional District, if known:</td>
</tr>
<tr>
<td>Subawardee</td>
<td>Tier ______ if known:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. Federal Department/Agency:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>7. Federal Program Name/Description:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>8. Federal Action Number, if known:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>9. Award Amount, if known: $</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>10a. Name and Address of Lobbying Entity</th>
<th>10b. Individuals Performing Services (including address if different from #10a.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(if individual, last name, first name, MI):</td>
<td>(last name, first name, MI):</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11. Amount of Payment (check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
</tr>
<tr>
<td>a. actual</td>
</tr>
<tr>
<td>b. planned</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>12. Form of Payment (check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. cash</td>
</tr>
<tr>
<td>b. in-kind: specify:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>13. Type of Payment (check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. retainer</td>
</tr>
<tr>
<td>b. one-time fee</td>
</tr>
<tr>
<td>c. commission</td>
</tr>
<tr>
<td>d. contingent fee</td>
</tr>
<tr>
<td>e. deferred</td>
</tr>
<tr>
<td>f. other; specify:</td>
</tr>
</tbody>
</table>

| 14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11: |

| 15. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty not less than $10,000 and not more than $100,000 for each such failure. |

<table>
<thead>
<tr>
<th>Signature: (Signature in Blue Ink only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Print Name: Beth Bunster</td>
</tr>
<tr>
<td>Title: CFO</td>
</tr>
<tr>
<td>Telephone #: 631-724-2760 Date: 6/27/19</td>
</tr>
</tbody>
</table>

| Federal Use Only: Authorized for Local Reproduction Standard From - I.I.B. |
MEMO

To: Board of Education
From: Carolyn Probst
Date: June 14, 2019
Re: Island Tutoring Center, Inc.

Attached please find the following homebound instruction and related services contracts:

Provider: Island Tutoring Center, Inc.

Term: July 1, 2019 to June 30, 2020

Cost: Varies

Service: This contract is for homebound instruction services provided to students in our school district.
CONTRACT FOR CONSULTANT SERVICES

AGREEMENT dated as of the ___ day of ____, 2019 between the HAUPPAUGE UNION FREE SCHOOL DISTRICT ("the District"), having its administrative offices at 495 Hoffman Lane, Hauppauge, New York, 11788-2836, and ISLAND TUTORING CENTER INC. ("the Consultant"), having an office at 12 Hamlet Drive, Hauppauge, New York, 11788.

In consideration of the mutual covenants and conditions contained in this Agreement, the District and the Consultant hereby agree as follows:

1. **Retention:** The District retains the Consultant and the Consultant agrees to provide the District with the following services ("Services") and the Consultant makes the representations and warranties hereinafter set forth:

   a. The Consultant agrees to provide the District with home teaching and related services in accordance with applicable laws, rules, and regulations, using only teachers certified by the New York State Education Department. The Consultant will provide Services to students on the District’s days of normal operation. The Services will consist of common branch instruction for grades 1-12 in English, Mathematics, Social Studies, Science, and other major courses of study as required by the District. Elementary students will receive one hour of instruction per day up to and including five hours per week. Secondary school students will receive two hours of instruction per subject up to and including ten hours per week. The Services will be provided by the Consultant in a community center, library, designated school premises, or another appropriate public place, as mutually agreed to by the parties. The Services must not be provided in a student’s home unless an adult of 18 years of age or older is present. All services to special education students must be provided in strict compliance with the student’s Individualized Education Program.

   b. The Consultant represents and warrants that Consultant is duly licensed and authorized to perform the Services and that Consultant will provide the District with licensed and qualified individuals. Consultant further represents and warrants that the Services will be performed by individuals that are licensed pursuant to State, federal and local laws, regulations and rules. Upon the District’s request, the Consultant agrees to submit to the District proof of certification and/or professional licensing of all individuals providing Services.

   c. The individuals providing Services are subject to the District’s approval, and the District reserves the right to reject the placement of any individual.

   d. The Consultant further agrees to complete and submit, upon the request of the District, all forms to document the Services provided to Medicaid eligible school aged-students, for Medicaid reimbursement purposes. The Consultant represents and warrants Consultant has never been excluded from Medicare, Medicaid, or any health care benefit program funded by the Federal government. The Consultant represents and warrants, as a material term of this Agreement, that neither Consultant nor any of Consultant’s employees is/are:

   i. Currently excluded from or otherwise ineligible to participate in any federal or State health care program, including those defined in 42 U.S.C. § 1320 a-7b(f);

   ii. The subject of any pending exclusion proceeding; or
iii. The subject of an adjudication or determination that Consultant or Consultant’s employees have committed any action that could subject the Consultant to exclusion from governmental programs (collectively, “exclusion activity”).

Additionally, the Consultant agrees that, as a continuing obligation of this Agreement, the Consultant will:

i. Maintain documentation evidencing monthly exclusion checks, and will produce the documentation to the District upon its request; and

ii. Report in writing to the District any exclusion activity involving the Consultant as soon as practicable after the Consultant learns of the exclusion activity.

e. Consultant agrees to obtain whatever releases or other legal documents that are necessary for the Consultant to render full and complete reports concerning the progress of the pupil(s) covered by this Agreement.

f. Consultant agrees to furnish to the State all reports, audits, and other documentation or information required to make determinations as to eligibility pursuant to State or federal laws, regulations or rules. Those materials must be furnished at all times required by the State. Failure to submit required materials within ten calendar days of demand or as required by law will constitute a material breach of this Agreement. The Consultant agrees to provide the State access to all relevant records which the State requires to determine the Consultant’s or the District’s compliance with applicable State or federal laws, regulations or rules. The Consultant agrees to retain all materials and records relevant to the execution or performance of the Agreement in accordance with the requirements of applicable law, but in no event less than six years from the date of this Agreement.

g. The Consultant agrees to submit written reports of each student’s progress to the District at the end of each semester (i.e. on or before January 31 and June 30) and, at other times, upon the District’s request. The Consultant further agrees to furnish written progress reports to the District at any time that the reports are made to the parents of the pupil(s) covered by this Agreement. All reports must be furnished upon termination of the Agreement. The Consultant must provide any additional information concerning a pupil’s progress upon the District’s request.

2. **Compensation:** The District will compensate the Consultant at the following rates:

<table>
<thead>
<tr>
<th>Service</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home Instruction (All k-12 subjects)</td>
<td>$39.00 per hour</td>
</tr>
<tr>
<td>Resource Room (1:1 instruction)</td>
<td>$73.00 per hour</td>
</tr>
<tr>
<td>Resource Room (2:1 or 3:1 instruction)</td>
<td>$88.00 per hour</td>
</tr>
<tr>
<td>Resource Room (4:1 or 5:1 instruction)</td>
<td>$118.00 per hour</td>
</tr>
<tr>
<td>Service</td>
<td>Rate</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Speech (individual)</td>
<td>$95.00 per hour</td>
</tr>
<tr>
<td>Speech (2:1 instruction)</td>
<td>$115.00 per hour</td>
</tr>
<tr>
<td>Speech (group of 3 or more)</td>
<td>$135.00 per hour</td>
</tr>
<tr>
<td>Occupational Therapy (individual)</td>
<td>$85.00 per hour</td>
</tr>
<tr>
<td>Occupational Therapy (2:1 instruction)</td>
<td>$100.00 per hour</td>
</tr>
<tr>
<td>Occupational Therapy (group of 3 or more)</td>
<td>$115.00 per hour</td>
</tr>
<tr>
<td>Aide</td>
<td>$45.00 per hour</td>
</tr>
<tr>
<td>Behavior Intervention Services</td>
<td>$85.00 per hour</td>
</tr>
<tr>
<td>Counseling Services</td>
<td>$100.00 per hour</td>
</tr>
<tr>
<td>Educational Evaluations</td>
<td>$495.00 per evaluation</td>
</tr>
</tbody>
</table>

The District will not incur any charges if the Consultant or the Consultant’s employees or agents fail to attend a session for any reason whatsoever. If a student is absent or unable to attend a session, for any reason whatsoever, the District is not responsible for payment of any fee(s) associated with the Services if the District notifies the Consultant at least 24 hours prior to the session’s scheduled starting time. If a student is absent or unable to attend a session and the District does not notify the Consultant at least 24 hours prior to the session’s scheduled starting time, the District will be charged for one hour. The District will endeavor to notify the Consultant of a student’s absence whenever practicable.

The Consultant must submit monthly invoices in form and substance satisfactory to the District for the Consultant’s Services. The District will pay the Consultant within 60 calendar days of its receipt, review and approval of the invoice.

3. **Term:** This Agreement is for Services provided from July 1, 2019 to June 30, 2020, unless this Agreement is terminated earlier as herein provided. The Consultant acknowledges that the District is under no obligation to renew this Agreement upon its expiration.

4. **Independent Contractor:** The Consultant is retained by the District only for the purposes and to the extent set forth in this Agreement. The Consultant’s relation to the District is solely that of an independent contractor during the period of the Consultant’s retention and delivery of Services hereunder.

Neither the Consultant nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker’s Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance or malpractice insurance. With regard to employees of the
Consultant, the Consultant alone is responsible for their work, personal conduct, direction, compensation, and for payment of all employment, income and other taxes in relation thereto.

5. **Indemnification:** To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the performance of the Consultant’s Services hereunder, or the action of, or the failure to act by the Consultant, the Consultant’s representatives or employees, or anyone for whose acts the Consultant may be liable.

In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from the Consultant pursuant to the provisions of this Paragraph 5, the District will promptly notify the Consultant of the legal proceeding, claim or demand, and give the Consultant an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the Consultant in connection with the defense, which will be at the expense of the Consultant. In the event that the Consultant fails to defend the same within 30 calendar days of receipt of the notice, the District will be entitled to assume the defense thereof, and the Consultant will be liable to repay the District for all its expenses reasonably incurred in connection with the defense (including reasonable attorney’s fees, disbursements, expert witness fees and settlement payments). The failure of the District to notify the Consultant of a legal proceeding, claim or demand will not relieve the Consultant of any obligation that the Consultant has pursuant to this Paragraph 5 unless and only to the extent that the failure to notify the Consultant materially prejudices the Consultant.

The Consultant agrees not to enter into any waiver, release or settlement of any legal proceeding, claim or demand for which indemnification may be sought hereunder without the prior written consent of the District (which consent will not be unreasonably withheld).

All of the provisions of this Paragraph 5 will survive the expiration or sooner termination of this Agreement.

6. **Expenses:** The Consultant will pay all expenses incurred in connection with the performance of the Consultant’s duties hereunder including, but not limited to, automobile and/or travel expenses.

7. **Required Records:** The Consultant will provide services and maintain records, logs and reports in accordance with all applicable laws, regulations and requirements of the New York State Education Department, the New York State Department of Labor and District policies and procedures in force during the term of this Agreement. All student records and logs will be the property of the District. The Consultant must provide the District with a copy of any reports, tests, evaluations or observations that are prepared in connection with the Services provided by the Consultant pursuant to this Agreement.

8. **Review of Records:** The District will have the right to examine any or all records or accounts maintained by the Consultant in connection with this Agreement.
9. District’s Policies/Authority: The Consultant certifies that it has reviewed and is familiar with the policies, rules and regulations of the District including, but not limited to, the District’s anti-harassment and anti-discrimination policies and regulations and the District’s Code of Conduct (collectively, "the Policies"). The Consultant will ensure that its employees, representatives, agents and subcontractors and any other person providing services or present on District property pursuant to this Agreement (collectively, "Consultant’s Service Providers") review and become familiar with the Policies. Copies of the Policies are available at http://www.hauppauge.k12.ny.us/domain/602. The Consultant agrees that it will comply with the Policies and will cause Consultant’s Service Providers to do the same.

THE CONSULTANT HEREBY CONFIRMS THAT IT HAS IMPLEMENTED A WRITTEN ANTI-SEXUAL HARASSMENT POLICY THAT MEETS OR EXCEEDS THE REQUIREMENTS OF NEW YORK LABOR LAW SECTION 201-G AND THAT ANNUAL TRAINING REGARDING THIS POLICY IS AND WILL BE PROVIDED TO ALL OF ITS EMPLOYEES CONSISTENT WITH LAW.

Any allegation that the Consultant or one of Consultant’s Service Providers has been subjected to harassment or discrimination while providing services or while present on District property pursuant to this Agreement must be reported immediately to the Assistant Superintendent for Personnel & Administration (or to the Superintendent if the Assistant Superintendent for Personnel & Administration is the subject of the allegation or concern). The Consultant confirms that it has notified the Consultant’s Service Providers of this requirement.

The Consultant will carry out the orders, directions and policies conveyed by the District from time to time either orally or in writing, provided, however, that the Consultant will determine the manner of carrying out the Consultant’s professional duties hereunder consistent with the Consultant’s status as an independent contractor.

10. Insurance: The Consultant will obtain and keep in full force and effect during the term of this Agreement, at the Consultant’s sole cost and expense, the following insurance:

a. Commercial General Liability Insurance

$2,000,000 per occurrence/$2,000,000 aggregate (must include coverage for sexual misconduct).

b. Workers’ Compensation and N.Y.S. Disability

Statutory Workers’ Compensation, Employers’ Liability and N.Y.S. Disability Benefits Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers’ Compensation Board. ACORD certificates are not acceptable.

A self-employed person and certain partners and corporate officers are excluded from the definition of “employee” pursuant to Workers’ Compensation Law Section 2(4). As such, individuals in such capacity are excluded from Workers’ Compensation Law coverage requirements. A person seeking an exemption must file a CE-200 form with the State.
The form may be completed and submitted directly online to the Workers Compensation Board:
http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp

c. Professional Errors and Omissions Insurance

$2,000,000 per occurrence/ $2,000,000 aggregate for the professional acts of the Consultant performed under this Agreement for the District. If written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement. Coverage must remain in effect for two calendar years following the completion of work.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Consultant hereby agrees to effectuate the naming of the District as an additional insured on the Consultant’s insurance policies, with the exception of workers’ compensation, N.Y. State disability and professional liability. Each policy naming the District as an additional insured must:

- be an insurance policy from an A.M. Best rated “secure” or better insurer, licensed in New York State; and

- state that the Consultant’s coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers.

The District must be listed as an additional insured. A completed copy of the endorsement or the applicable insurance policy language must be attached to the certificate of insurance and the certificate must state that the endorsement is being used. The certificate of insurance must describe the specific services provided by the Consultant (e.g., physical therapy, psychological services) that are covered by the commercial general liability policy and the umbrella policy. At the District’s request, the Consultant will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Consultant will provide a copy of the policy endorsements and forms.

The Consultant hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Consultant, to the extent not covered by the applicable policy.

If a policy is written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement.

The Consultant acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The Consultant must provide the District with proof satisfactory to the District that the above requirements have been met, prior to the commencement of work or use of District facilities. The failure of the District to object to the contents of the certificate or the absence of same will not be deemed a waiver of any and all rights held by the District. Upon request, the Consultant will provide the District with a copy of the Consultant’s applicable insurance policies including any endorsements, modifications, or exclusions thereto.
The District is a member/owner of the New York Schools Insurance Reciprocal ("NYSIR"). The Consultant acknowledges that the procurement of that insurance as required herein is intended to benefit not only the District, but also NYSIR as the District's insurer.

The District, in its sole discretion, may waive one or more of the requirements set forth in this paragraph. A waiver must be in writing and signed by an authorized representative of the District.

11. Safeguarding Information: Neither the Consultant nor the District will use or disclose any information concerning the Services pursuant to this Agreement for any purpose which is prohibited by Federal and State statutes and/or regulations.

12. Termination:

A. This Agreement may be terminated by the District "for cause" upon the occurrence of any of the following events:

(1) Immediately upon the District delivering written notice to the Consultant of a breach by the Consultant of any of the policies, rules and regulations of the District relating to the health or safety of students or District employees;

(2) Immediately upon the Consultant's breach of the Consultant's obligations to provide the insurance coverage set forth in Paragraph 10;

(3) Immediately upon the Consultant's breach of any of the Consultant's obligations pursuant to, or violation of, any applicable State or federal law or regulation; or

(4) Upon termination of this Agreement "for cause," the Consultant is not entitled to any further payments hereunder.

B. This Agreement is automatically terminated upon the Consultant's filing of a voluntary petition in bankruptcy or making an assignment for the benefit of creditors, or upon other action taken or suffered, voluntarily or involuntarily, pursuant to any federal or state law for the benefit of insolvents, and upon the filing of an involuntary petition in bankruptcy against the Consultant which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph 12(B), the Consultant is not entitled to any further payments hereunder.

C. This Agreement may be terminated, at any time, by the District for convenience upon 30 calendar days' written notice to the Consultant. Upon termination of this Agreement for convenience by the District, the Consultant is entitled to receive all sums due, accrued and unpaid as of the date of termination.

D. This Agreement may be terminated by the Consultant for cause 15 calendar days after the District has received written notice from the Consultant that the District has breached its payment obligations hereunder unless, within the 15 calendar day period, the District cures the breach by payment.

E. In the event of termination for any reason, all reports and Services due to
the District must be completed by the Consultant and delivered to the District within 30 calendar days of the termination date.

13. **Signing of Acknowledgement:** The Consultant agrees to complete and sign an Acknowledgement Form with regard to the New York State Education Department Waiver for the New York State Public Retirement System with respect to each owner of the Consultant and each principal employee of the Consultant. A schedule of such persons is attached as Exhibit A.

14. **Notices:** Any notices required or permitted to be given pursuant to the terms of this Agreement must be in writing and either personally delivered or sent by nationally recognized overnight carrier to the parties at the following addresses:

**To the Consultant:**
Island Tutoring Center Inc.  
P.O. Box 5031  
Huntington, New York 11788

**To the District:**
Hauppauge Union Free School District  
495 Hoffman Lane  
Hauppauge, NY 11788-2836  
Attention: Assistant Superintendent for Business and Operations

**With a copy to:**
Lamb & Barnosky, LLP  
534 Broadhollow Road, Suite 210  
P.O. Box 9034  
Melville, New York 11747  
Attention: Eugene R. Barnosky, Esq.

If the notice is sent by personal mail, it will be deemed delivered upon receipt and if sent by registered or certified mail, it will be deemed delivered 3 days after so mailing.

15. **Entire Agreement:** This Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, by and between the parties.

16. **Modification:** This Agreement may not be changed orally, but only by an agreement in writing signed by the party or parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or provision of this Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.

17. **Governing Law, Choice of Forum and Waiver of Jury Trial:** This Agreement is subject to, governed by, enforced according to and construed according to the laws of the State of New York, without regard to the conflicts of laws provisions thereof. Any dispute arising under this Agreement will be litigated in a New York State Court in Suffolk County, New York. The parties each waive trial by jury in any action concerning this Agreement.

18. **No Assignment:** In accordance with the provisions of General Municipal Law §
109, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of the Consultant’s rights, title, or interest in this Agreement, or the Consultant’s power to execute this Agreement to any other person or corporation without the previous consent in writing from the District.

19. **Third-Party Beneficiaries:** There are no third-party beneficiaries of or in this Agreement, other than NYSIR.

20. **Negotiated Agreement:** This is a negotiated Agreement. It will not be construed against any party by reason of this Agreement being prepared by that party’s attorney. Each party warrants that it/he/she has full power to execute, deliver and perform this Agreement and has taken all actions required by law, organizational documents or otherwise to authorize the execution and delivery of this Agreement.

21. **Iran Divestment Act of 2012:** By signing this Agreement, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its/his/her own organization, under penalty of perjury, that to the best of its/his/her knowledge and belief that each person is not on the list created pursuant New York State Finance Law § 165-a(3)(b).

22. **Plan for Security and Protection of Personally Identifiable Information:**

A. “District Data” means all information obtained by the Consultant from the District or by the Consultant in connection with the Services provided by the Consultant pursuant to this Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District, with the exception of PII from student and personnel data.

B. “Personally Identifiable Information” or “PII” includes, but is not limited to: (i) a person’s name or address or the names or addresses of a student’s parents or other family members; (ii) any personal identifier (e.g., SSN, student number or biometric record); (iii) indirect identifiers (e.g., date of birth, place of birth, or mother’s maiden name); (iv) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or Consultant reasonably believes knows the identity of the person to whom a record relates.

C. The Consultant represents and warrants that it will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of District Data.

D. The Consultant represents and warrants that District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to this Agreement and for no other purpose.

E. The Consultant represents and warrants that it will only collect data from the District or District employees or other End Users (the term “End Users” means the individuals authorized by the District to access and use services provided by the Consultant
pursuant to this Agreement) that is necessary to fulfill the Consultant’s duties pursuant to this Agreement.

F. The Parties agree that all rights including all intellectual property rights in and to District Data will remain the exclusive property of the District and that the Consultant has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

G. The Consultant agrees not to sell District Data and agrees not to use any District Data to advertise or market to District employees or other End Users or use or allow any other person or entity to use District Data for any commercial or marketing purpose, other than to perform the Consultant’s obligations pursuant to this Agreement. “Commercial or marketing purpose” means the sale of District Data or its use or disclosure, whether directly or indirectly, to derive a profit for advertising purposes or to develop, improve or market products or services.

H. The Consultant agrees that, upon receipt of District Data, it will: (i) limit the Consultant’s internal access to District Data to employees with legitimate educational interests (i.e., access will be limited to those employees who must access District Data to implement the terms of this Agreement); (ii) use District Data only for the purposes explicitly authorized by this Agreement; (iii) not disclose any PII from District Data to any other party (a party other than an employee with a legitimate educational interest) without the District’s prior written consent (if necessary, the District will obtain the required consent(s) from third parties), unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order); (iv) maintain reasonable safeguards to maintain confidentiality of PII in District Data and adopt technologies, safeguards and practices that align with the required version of the National Institute for Standards and Technology Framework for Improving Critical Infrastructure and any other legally required cybersecurity frameworks or standards; (v) use legally mandated encryption technology to protect District Data from unauthorized disclosure; and (vi) store all District Data within the United States of America.

I. If the Consultant has access to District Data that is subject to the Family Educational Rights and Privacy Act (“FERPA”), the Consultant acknowledges that for purposes of this Agreement it will be designated as a “school official” with a “legitimate educational interest” pursuant to FERPA and its implementing regulations, and the Consultant agrees to abide by the limitations and requirements imposed on school officials.

J. The Consultant represents and warrants that it will comply with the District’s Parents’ Bill of Rights, as supplemented, to include information about this Agreement, a copy of which is annexed hereto as Exhibit B and is signed by the Parties.

K. The Consultant represents and warrants that it has provided or, within 30 calendar days of the date of this Agreement and prior to allowing any of its employees access to District Data, will provide training, about the State and federal laws and regulations governing confidentiality of District Data to any employee who has access to District Data.

L. Except as prohibited by law, the Consultant will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by Consultant seeking District Data; (ii) consult with the District regarding its response; (iii)
cooperate with the District’s reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and (iv) upon the District’s request, provide the District with a copy of Consultant’s response.

M. Upon the District’s request, the Consultant agrees that it will promptly make any District Data held by the Consultant available to the District.

N. A breach is any unauthorized access, use or disclosure of District Data. The Consultant agrees to notify the District of any breach. This notification will be made in the most expeditious way possible and without delay. The Consultant must also notify the District in writing of the breach. This written notification must be sent by the Consultant within one calendar day of the breach and must be sent to the District by email to the Deputy Superintendent and either personally delivered or sent by nationally recognized overnight carrier to the District. In the event of a breach attributed to the Consultant or the Consultant’s assignees or subcontractors, the Consultant must reimburse the District for all the District’s costs associated with the District’s obligation to notify the State’s chief privacy officer, parents, students, teachers and/or principals of the breach.

O. The parties agree to execute an amendment to this Agreement if required for compliance with any new laws or regulations relating to the confidentiality, security and privacy of data.

P. To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from the District’s notification obligations set forth above in Subparagraph N.

Q. All the provisions of this Paragraph 22 will survive the expiration or sooner termination of this Agreement.

23. Fingerprinting: The Consultant will be responsible for compliance with the requirements of all applicable laws, rules and regulations, including, but not limited to Project Save and the Safe Schools Act with respect to any person providing Services involving direct contact with District students. All persons providing Services involving direct contact with District students must receive fingerprinting clearance prior to providing the Services. Written proof of clearance of each person (in form and substance satisfactory to the District) will be provided to the District prior to the provision of Services. The Consultant will inform the District, in writing, within one business day of the Consultant’s receipt of a notice of subsequent arrest (or any other notice related to fingerprinting) for any person providing Services. If any of the Consultant’s employees who are assigned to provide Services do not have the appropriate fingerprinting clearance, the Consultant must give the District the information necessary to process and obtain fingerprint clearance and reimburse the District for the cost to the District of obtaining the clearance. The District will deduct the cost of the fingerprinting clearance from the next payment due to the Consultant. If any person providing Services leaves the employment of the Consultant for any reason, the Consultant must notify the District, in writing, within one calendar week of the end of the person’s employment. If the District has not received sufficient proof of fingerprinting clearance for any person providing Services, the District will deduct the cost.
of the Services provided by the person from the next payment due to the Consultant. Consultant agrees that Consultant will perform or cause a third party to perform a background check of all individuals providing Services. Consultant further agrees to confirm that all individuals providing Services for which a license is required by the State and for which fingerprinting is required to obtain that license, have in fact been fingerprinted in connection with the issuance of that license.

24. **No End User Agreements**: In the event that the Consultant enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the Agreement will apply.

25. **Execution**: The Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement. The Agreement may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the latter date that appears below.

**HAUPPAUGE UNION FREE SCHOOL DISTRICT**

By: ________________________________

David M. Barshay
President, Board of Education

Date: ________________________________

**ISLAND TUTORING CENTER INC.**

By: ________________________________

Steven C. Thode
Title: Owner

Date: 6/13/19
EXHIBIT A
ACKNOWLEDGMENT WITH REGARD TO THE NEW YORK STATE EDUCATION DEPARTMENT WAIVER

Complete one of the following paragraphs:

1. I, Steven C. Thack _____ verify that I am not a retired member of any New York State Public Retirement System, and therefore do not require a waiver from the New York State Education Department to perform the duties for which I have contracted.

   [Signature]
   Signed
   6/13/19
   Date

2. I, _________________________ verify that I am a retired member of a New York State Public Retirement System but all collective earnings from any public employment in New York State will not and does not exceed the current earnings limitation. Therefore, I do not require a waiver from the New York State Education Department to perform the duties for which I have contracted.

   [Signature]
   Signed
   Date

3. I, _________________________ verify that I am a retired member of a New York State Public Retirement System and I expect that my collective earnings from any public employment in New York State will exceed the current earnings limitation. Therefore, I require a waiver from the New York State Education Department and I request that ________________________ School District file a request for the waiver on my behalf.

   [Signature]
   Signed
   Date

4. I, _________________________ verify that I am a retired member of any New York State Public Retirement System, but I do not require a waiver from the New York State Education Department to perform the duties for which I have contracted because I am at least 65 years old.

   [Signature]
   Signed
   Date
EXHIBIT B

AGREEMENT BETWEEN ISLAND TUTORING CENTER INC. ("the Consultant") and the DISTRICT

TERM: JULY 1, 2019 to JUNE 30, 2020

HAUPPAUGE UNION FREE SCHOOL DISTRICT’S PARENTS’ BILL OF RIGHTS REGARDING DATA PRIVACY AND SECURITY

*****************************************************************************************************************

HAUPPAUGE UNION FREE SCHOOL DISTRICT
PARENTS’ BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

Summary of Rights and Information for Parents and Students

The legislature and governor passed a group of bills that adjusted the Regents Education Reform Agenda. These bills are known collectively as the “Common Core Implementation Reform Act.” One of the key components of this act (Chapter 56, Part AA, Subpart L, of the laws of 2014) directs the Commissioner of Education to appoint a Chief Privacy Officer (CPO). A major function of this new position is to work with school districts and parents to develop elements for a parents’ bill of rights to help ensure that student data is private and secure. The State Education Department (SED) and the CPO must also recommend regulations to establish standards for data security and privacy policies that will be implemented statewide.

SED has issued a preliminary Parents’ Bill of Rights for Data Privacy and Security. The Hauppauge Union Free School District is issuing this summary of parents’ rights under the new law. While some additional elements will be developed in conjunction with the CPO, districts, parents and the Board of Regents, this summary sets forth the key rights and information that parents should be aware of in regards to ensuring the privacy and security of their student’s educational data.

The Hauppauge Union Free School District is committed to ensuring student privacy and recognizes that parents, legal guardians, and persons with a parental relationship to a student are entitled to certain rights with regard to their child’s personally identifiable information, as defined by Education Law §2-d. To this end, the District is providing the following Parent’s Bill of Rights for Data Privacy and Security:

1. A student’s personally identifiable information cannot be sold or released for any commercial purposes;

2. Parents have the right to inspect and review the complete contents of their child’s education record;

3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred;
4. A complete list of all student data elements collected by the State is available for public review at http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863, 89 Washington Avenue, New York 12234; and

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to: Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.

If the Hauppauge Union Free School District enters into a third party contract in which the service provider receives student data or teacher or principal data in order to provide a needed service for the District, supplemental information shall be developed and provided to parents that states:

6. The exclusive purposes for which the student data or teacher or principal data will be used;

7. How the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;

8. When the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

9. If and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

10. Where the student data or teacher or principal data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

The CPO as appointed by the Commissioner must secure input from parents and other education and expert stakeholders to develop additional elements for the Parents’ Bill of Rights for Data Privacy and Security. The Commissioner of Education will also be promulgating regulations with a comment period for parents and other members of the public to submit comments and suggestions to the CPO.

In the meantime, you can access additional information and a question and answer document issued by SED as a preliminary Parents’ Bill of Rights for Data Privacy and Security.

If you have any further questions or concerns at this time, please contact Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Dr. Donald B. Murphy, Assistant Superintendent for Curriculum, Instruction, and Technology, Hauppauge UFSD, at (631) 761-8202.
This Bill of Rights will be included with every contract entered into by the District with an outside contractor if the contractor will receive student data or teacher or principal data. This Bill of Rights will be supplemented to include information about each contract that the District enters into with an outside contractor receiving confidential student data or teacher or principal data, including the exclusive purpose(s) for which the data will be used, how the contractor will ensure confidentiality and data protection and security requirements, the date of expiration of the contract and what happens to the data upon the expiration of the contract, if and how the accuracy of the data collected can be challenged, where the data will be stored and the security protections that will be taken.

“District Data” means all information obtained by the Consultant from the District or by the Consultant in connection with the services provided by Consultant pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publicly available by the District, with the exception of Personally Identifiable Information from student and personnel data.

(1) **Use of District Data by Consultant.** The District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to the Agreement and for no other purpose.

(2) **Storage and Security Protections.** The Consultant will store and process District Data in compliance with Education Law § 2-d(5) and applicable regulations of the Commissioner of Education, if any, as the same may be amended from time to time, and in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure District Data from unauthorized access, disclosure, alteration and use. The Consultant will use legally-required, industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services pursuant to the Agreement. Consultant will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

The following paragraphs describe (in such a manner as to protect data security) the specific storage methods and security protections used by the Consultant to protect District Data:

(a) **Storage of Electronic Data:** Stored on single computer with Steven C. under the only person with access.

(b) **Storage of Non-Electronic Data:** Stored in files with Steven C. under the only person with access.
Personnel/Workforce Security Measures: Fingerprinting, background checks.

Physical Security Measures: 

Account Management and Access Control: All handled exclusively by Steven C. Thorpe.

All electronic District Data will be protected by the Consultant through the use of encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).

Sharing Information with Other Persons and Entities. The Consultant will only share District Data with entities or persons authorized by the Agreement. To the extent that District Data will be shared by the Consultant with other authorized entities or persons not employed by Consultant, the Consultant will ensure that those persons or entities will be required to agree in writing that it/they will comply with all terms of the Agreement’s Plan for Security and Protection of Personally Identifiable Information, and any other Agreement provision relating to confidentiality of records and data security and privacy, including, but not limited to this Exhibit B.

Destruction/Return of Data. Upon the termination of the Agreement for any reason, the Consultant will, as directed by the District in writing, securely destroy (“securely destroy” means taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means) or return all District Data received by the Consultant as soon as reasonably possible. The District’s decision will be made in connection with all applicable laws, including the New York Arts and Cultural Affairs Law and the Records Retention and Disposition Schedule ED-1. In connection with the secure destruction of any District Data, the Consultant will provide a certificate of destruction (form and substance satisfactory to the District) to the District.

Challenge to Accuracy of Data. A parent or guardian, student, teacher or principal can challenge the accuracy of the Data received by the Consultant by following applicable law (e.g., Family Educational Rights and Privacy Act),
employment agreements, and policies, rules and regulations. If the Consultant receives a challenge to the accuracy of Data from a parent or guardian, student, teacher or principal, the Consultant will notify the District in writing. The Consultant will not amend any Data without a written request from the District.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ________________________________
David M. Barshay
President, Board of Education

Date: ________________________________

ISLAND TUTORING CENTER, INC.

By: ________________________________
Steven C. Thode
Title: Owner

Date: 6/13/19
INSTRUCTIONS FOR PARENTS BILL OF RIGHTS

Exhibit B contains information required by New York Education Law § 2-d and includes information that makes up part of the mandated Plan for Protection of Personally Identifiable Information. It should contain detailed information about data storage and security measures. The Consultant must describe the ways it will store District Data and the specific security protections that will be used by the Consultant to protect District Data. **Please note that these descriptions are part of a publically accessible document and must be written in a manner that will protect the Consultant’s data security.**

Below, we list examples for each storage/security category set forth in Exhibit B. These are only examples and the Consultant must describe the specific storage methods and security protections it uses (again, the description must be written in a manner that will protect the Consultant’s data security). The amount of information included should not be limited by the space provided.

**Examples:**

(a) **Storage of Electronic Data:**
   - In the Cloud (specify types, private or public, *etc.*)
   - On Consultant’s server

(b) **Storage of Non-Electronic Data:**
   - Files stored in locked filing cabinets

(c) **Personnel/Workforce Security Measures:**
   - Describe internal policies regulating access to information and sharing information amongst coworkers
   - Describe policies relating to the requirement to return all data and property to the Consultant upon an employee’s separation from employment

(d) **Account Management and Access Control:**
   - Use of unique user-IDS
   - Use of passwords that are regularly and frequently updated
   - Use of automatic techniques to terminate a session upon specific conditions (*e.g.*, idle time)
   - Policy to disable employee accounts upon termination from employment

(e) **Physical Security Measures:**
   - Describe security barriers and access controls (*e.g.*, locking of doors, desks and filing cabinets)
   - Describe visitor policies (*e.g.*, visitors are escorted at all times when visiting information processing and storage facilities
SPECIAL RIDER

FOR COMPLIANCE WITH JUNE 2, 2010 STATE EDUCATION DEPARTMENT
GUIDANCE RELATED TO CONTRACTS FOR INSTRUCTION

The parties to the annexed Agreement hereby confirm that ISLAND TUTORING CENTER INC. ("the Consultant") will meet the criteria and guidelines set forth in the attached June 2, 2010 Guidance Memorandum issued by the New York State Education Department concerning contracts for instruction ("the Guidance"). The Consultant further represents that it is capable of meeting the criteria and guidelines set forth in the Guidance. The Consultant also agrees to provide the Hauppauge Union Free School District ("the District") with access and student records necessary for the District to fulfill its supervisory obligations as set forth in the Guidance.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ___________________________ Date: ___________________________
   David M. Barsbay
   President, Board of Education

ISLAND TUTORING CENTER INC.

By: ___________________________ Date 6/13/19
   Name: Steven C. Thode
   Title: Owner
HAUPPAUGE PUBLIC SCHOOLS
Office of the Director of Pupil Personnel Services

TO: Jacqueline Pirro
FROM: Lois Jankeloff
DATE: June 14, 2019
SUBJECT: Contracts 2019-20

Please have the Board of Education sign and approve the following contracts:

Provider: Maryhaven
Term: 7/1/19 to 6/30/19
Cost: Tuition Rate Established by the Commissioner of Education for the State of New York
Service: Special Education Program
CONTRACT FOR SCHOOL SERVICES

AGREEMENT dated as of the ___ day of ___, 2019 between the HAUPPAUGE UNION FREE SCHOOL DISTRICT ("the District"), having its administrative offices at 495 Hoffman Lane, Hauppauge, New York 11788-2836, and MARYHAVEN CENTER OF HOPE ("the School"), having an office at 51 Terryville Road, Port Jefferson, New York 11776.

WHEREAS, the District is authorized by law to contract with institutions within the State for the instruction of students with disabilities in situations where the District is unable to provide instruction within its schools; and

WHEREAS, the School represents and warrants that it will provide the level of services required to meet the needs of the students; and

WHEREAS, the School is a registered nonpublic school chartered by the Board of Regents of the University of the State of New York as a non-profit educational corporation authorized to establish, conduct, operate and maintain an educational program for students within disabilities; and

WHEREAS, the District desires that the School provide instruction to District students placed at the School; and

WHEREAS, the School is ready and willing to provide the District’s students with instruction as more fully described herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties incorporate the above statements into the body of this Agreement as if fully set forth therein and hereby mutually agree as follows:

1. Retention: The District retains the School and the School agrees to provide the District with the following services ("the Services") to the student(s) set forth on the attached Confidential Schedule A ("the Students") and the School makes the representations and warranties hereinafter set forth:

   a. The School agrees to provide appropriate instruction, related services, home and community services, parent counseling and training to the Students and/or their families. The Services provided to the Students must be appropriate to the mental and physical ability of the Students and in accordance with applicable federal, State and local laws, rules and regulations.

   b. The School agrees to conduct evaluations and testing of Students pursuant to the District’s requests.

   c. The School represents and warrants that it is duly licensed and authorized to perform the Services and that it will utilize licensed and qualified individuals to perform the Services. The School further represent and warrants that the Services will be performed by individuals that are licensed pursuant to State, federal and local laws, regulations and rules. Upon
the District's request, the School agrees to submit to the District proof of certification and/or professional licensing of all individuals providing Services.

d. The individuals providing Services are subject to the District's approval, and the District reserves the right to reject the placement of any individual.

e. The School agrees to complete and submit, upon the District's request, all forms to document the Services provided to Medicaid-eligible school-aged students, for Medicaid reimbursement purposes. The School represents and warrants it has never been excluded from Medicare, Medicaid, or any health care benefit program funded by the Federal government. The School represents and warrants, as a material term of this Agreement, that neither it nor any of its employees is/are:

i. Currently excluded from or otherwise ineligible to participate in any federal or State health care program, including those defined in 42 U.S.C. § 1320 a-7(b)(f);

ii. The subject of any pending exclusion proceeding; or

iii. The subject of an adjudication or determination that it/they have committed any action that could subject the School to exclusion from governmental programs (collectively, "exclusion activity").

Additionally, the School agrees that, as a continuing obligation of this Agreement, the School will:

i. Maintain documentation evidencing monthly exclusion checks, and will produce the documentation to the District upon its request; and

ii. Report in writing to the District any exclusion activity involving the School as soon as practicable after the School learns of the exclusion activity.

f. The School agrees to obtain whatever releases or other legal documents are necessary for the School to render full and complete reports concerning the progress of the Students.

g. The School agrees to provide and maintain records, logs and reports in accordance with all applicable laws, regulations and requirements (including, but not limited to, the requirements of the New York State Education Department and New York State Department of Labor and District Policies).

h. The School agrees to maintain attendance records for the Students. If a Student is absent for a period of five or more consecutive school days, the attendance record must indicate the reason for the absence. Absences attributable to sickness, death of an immediate family member, and/or a family emergency will constitute an authorized absence. In the event that a Student has an unauthorized absence, the School must notify the District immediately and send a written notice to the District within 72 hours of absence.
i. The School hereby agrees to furnish written progress reports to the District (form and substance satisfactory to the District) on a quarterly basis pursuant to the District's report card schedule or as otherwise required by each Student's Individualized Education Program ("IEP"). The School further agrees to provide the District with copies of any reports, testing, evaluations, or observations that are prepared in connection with the Services and to render and provide to the District additional reports upon the District's request. All reports must be furnished upon termination of the Agreement. The School must provide any additional information concerning a Student's progress upon the District's request.

j. The School agrees to participate and cooperate, as needed, with the District's Committee on Special Education ("the CSE"), as well as in any impartial hearings and mediations affecting a Student. The School further agrees to provide the CSE with annual written progress reports for the Students to be reviewed at the annual CSE meeting.

k. The School hereby agrees to furnish to the State all reports, audits, and other documentation or information required to make determinations as to eligibility pursuant to State or federal laws, regulations or rules. Those materials must be furnished at all times required by the State. Failure to submit required materials within ten calendar days of demand or as required by law will constitute a material breach of this Agreement. The School agrees to provide the State access to all relevant records which the State requires to determine the School's or the District's compliance with applicable State or federal laws, regulations or rules. The School agrees to retain all materials and records relevant to the execution or performance of the Agreement in accordance with the requirements of applicable law, but in no event less than six years from the date of this Agreement.

1. The School agrees to furnish each individual providing Services with a photo identification badge to be worn at all times while the individual is providing Services.

m. The School agrees that all disciplinary measures for Students will be conducted in accordance with applicable federal, State and local laws, rules and regulations.

n. The School agrees that it is responsible for appropriate staff orientation and training for its employees, including but not limited to, training related to the provision of educational services to handicapped children.

o. The School represents and warrants that all instruction and facilities provided for any Student will be appropriate to the mental attainments and physical conditions of the Student and in accordance with the provisions relating to the eligibility of schools contained in the Regulations of the Commissioner of Education and comply with the Student's most current IEP, a copy of which is provided by the District.

2. **Compensation:** In full consideration for the Services, the District will compensate the School at the rates set forth by the New York State Department of Education ("NYSED"). The School must submit monthly invoices (form and substance satisfactory to the District) for the School's Services. Student attendance records must be submitted with all invoices. The District will pay the School within 60 calendar days of its receipt, review and approval of the invoice. Where the rate has not yet been set by NYSED, the District will pay the School at the rate
established for the previous school year. Any resulting tuition adjustment will be due upon receipt of a properly executed adjustment invoice.

The District reserves the right to add or delete a Student from Confidential Schedule A at any time during the term of this Agreement. The School’s compensation for Students added or removed will be prorated for the period of time services were provided to the Student.

No parent or guardian or any other person will be required to make payment for tuition or maintenance on behalf of any Student pursuant to this Agreement. Neither the School nor its employees may share or accept any payment or gratuity received from a Student or the Student’s family for the Services.

3. **Term**: This Agreement is for Services provided from July 1, 2019 to June 30, 2020, unless this Agreement is terminated earlier as herein provided. The School acknowledges that the District is under no obligation to renew this Agreement upon its expiration.

4. **Independent Contractor**: The School is retained by the District only for the purposes and to the extent set forth in this Agreement. The School’s relation to the District is solely that of an independent contractor during the period of the School’s retention and delivery of Services hereunder.

Neither the School nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions there to from the District relative to this Agreement including, but not limited to, social security, New York State Worker’s Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance or malpractice insurance. With regard to employees of the School, the School alone is responsible for their work, personal conduct, direction, compensation, and for payment of all employment, income and other taxes in relation thereto.

5. **Indemnification**: To the fullest extent permitted by law, the School indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the performance of the School’s Services hereunder, or the action of, or the failure to act by the School, the School’s representatives or employees, or anyone for whose acts the School may be liable.

In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from the School pursuant to the provisions of this Paragraph 5, the District will promptly notify the School of the legal proceeding, claim or demand, and give the School an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the School in connection with the defense, which will be at the expense of the School. In the event that the School fails to defend the same within 30 calendar days of receipt of the notice, the District will be entitled to assume the defense thereof, and the School will be liable to repay the District for all its expenses reasonably incurred in connection with the defense (including
reasonable attorney's fees, disbursements, expert witness fees and settlement payments). The failure of the District to notify the School of a legal proceeding, claim or demand will not relieve the School of any obligation that the School has pursuant to this Paragraph 5 unless and only to the extent that the failure to notify the School materially prejudices the School.

The School agrees not to enter into any waiver, release or settlement of any legal proceeding, claim or demand for which indemnification may be sought hereunder without the prior written consent of the District (which consent will not be unreasonably withheld).

All of the provisions of this Paragraph 5 will survive the expiration or sooner termination of this Agreement.

6. **Expenses:** The School will pay all expenses incurred in connection with the performance of the School's duties hereunder including, but not limited to, automobile and/or travel expenses.

7. **Review of Records:** The District will have the right to examine any or all records or accounts maintained by the School in connection with this Agreement.

8. **District's Policies/Authority:** The School certifies that it has reviewed and is familiar with the policies, rules and regulations of the District including, but not limited to, the District's anti-harassment and anti-discrimination policies and regulations and the District's Code of Conduct (collectively, "the Policies"). The School will ensure that its employees, representatives, agents and subcontractors and any other person providing services or present on District property pursuant to this Agreement (collectively, "School's Service Providers") review and become familiar with the Policies. Copies of the Policies are available at http://www.hauppauge.k12.ny.us/domain/602. The School agrees that it will comply with the Policies and will cause School's Service Providers to do the same.

**THE SCHOOL HEREBY CONFIRMS THAT IT HAS IMPLEMENTED A WRITTEN ANTI-SEXUAL HARASSMENT POLICY THAT MEETS OR EXCEEDS THE REQUIREMENTS OF NEW YORK LABOR LAW SECTION 201-G AND THAT ANNUAL TRAINING REGARDING THIS POLICY IS AND WILL BE PROVIDED TO ALL OF ITS EMPLOYEES CONSISTENT WITH LAW.**

Any allegation that the School or one of School's Service Providers has been subjected to harassment or discrimination while providing services or while present on District property pursuant to this Agreement must be reported immediately to the Assistant Superintendent for Personnel & Administration (or to the Superintendent if the Assistant Superintendent for Personnel & Administration is the subject of the allegation or concern). The School confirms that it has notified the School's Service Providers of this requirement.

The School will carry out the orders, directions and policies conveyed by the District from time to time either orally or in writing, provided, however, that the School will determine the manner of carrying out the School's professional duties hereunder consistent with the School's status as an independent contractor.
9. **Insurance**: The School will obtain and keep in full force and effect during the term of this Agreement, at the School’s sole cost and expense, the following insurance:

   a. **Commercial General Liability Insurance**

      $1,000,000 per occurrence/$2,000,000 aggregate (must include coverage for sexual misconduct).

   b. **Workers’ Compensation and N.Y.S. Disability**

      Statutory Workers’ Compensation, Employers’ Liability and N.Y.S. Disability Benefits Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers’ Compensation Board. ACORD certificates are not acceptable.

   c. **Professional Errors and Omissions Insurance**

      $2,000,000 per occurrence/$2,000,000 aggregate for the professional acts of the School performed under this Agreement for the District. If written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement. Coverage must remain in effect for two calendar years following the completion of work.

   d. **Excess Insurance**

      $3,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the School hereby agrees to effectuate the naming of the District as an additional insured on the School’s insurance policies, with the exception of workers’ compensation, N.Y. State disability and professional liability. Each policy naming the District as an additional insured must:

- be an insurance policy from an A.M. Best rated “secure” or better insurer, licensed in New York State; and

- state that the School’s coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers.

The District must be listed as an additional insured by using endorsement CG 2026 or its equivalent. The decision to accept an alternative endorsement rests solely with the District. A completed copy of the endorsement must be attached to the certificate of insurance and the certificate must state that the endorsement is being used. The certificate of insurance must describe the specific services provided by the School (e.g., physical therapy, psychological services) that are covered by the commercial general liability policy and the umbrella policy. At the District’s request, the School will provide copies of the declarations pages of the liability and
umbrella policies with a list of endorsements and forms. If so requested, the School will provide a copy of the policy endorsements and forms.

The School hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the School, to the extent not covered by the applicable policy.

If a policy is written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement.

The School acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The School must provide the District with proof satisfactory to the District that the above requirements have been met, prior to the commencement of work or use of District facilities. The failure of the District to object to the contents of the certificate or the absence of same will not be deemed a waiver of any and all rights held by the District. Upon request, the School will provide the District with a copy of the School’s applicable insurance policies including any endorsements, modifications, or exclusions thereto.

The District is a member/owner of the New York Schools Insurance Reciprocal ("NYSIR"). The School acknowledges that the procurement of that insurance as required herein is intended to benefit not only the District, but also NYSIR as the District’s insurer.

The District, in its sole discretion, may waive one or more of the requirements set forth in this paragraph. A waiver must be in writing and signed by an authorized representative of the District.

10. Safeguarding Information: Neither the School nor the District will use or disclose any information concerning the Services pursuant to this Agreement for any purpose which is prohibited by Federal and State statutes and/or regulations.

11. Termination:

A. This Agreement may be terminated by the District “for cause” upon the occurrence of any of the following events:

(1) Immediately upon the District delivering written notice to the School of a breach by the School of any of the policies, rules and regulations of the District relating to the health or safety of students or District employees;

(2) Immediately upon the School’s breach of the School’s obligations to provide the insurance coverage set forth in Paragraph 9;

(3) Immediately upon the School’s breach of any of the School’s obligations pursuant to, or violation of, any applicable State or federal law or regulation; or
(4) Fifteen calendar days after the School has received written notice from the District that the School has breached any of the School's other obligations hereunder unless, within the 15 calendar day period, the School cures the breach to the District’s satisfaction.

(5) Upon termination of this Agreement “for cause,” the School is not entitled to any further payments hereunder.

B. This Agreement is automatically terminated upon the School’s filing of a voluntary petition in bankruptcy or making an assignment for the benefit of creditors, or upon other action taken or suffered, voluntarily or involuntarily, pursuant to any federal or state law for the benefit of insolvents, and upon the filing of an involuntary petition in bankruptcy against the School which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph 11(B), the School is not entitled to any further payments hereunder.

C. This Agreement may be terminated, at any time, by the District for convenience upon 30 calendar days' written notice to the School. Upon termination of this Agreement for convenience by the District, the School is entitled to receive all sums due, accrued and unpaid as of the date of termination.

D. In the event of termination for any reason, all reports and Services due to the District must be completed by the School and delivered to the District within 30 calendar days of the termination date.

12. Notices: Any notices required or permitted to be given pursuant to the terms of this Agreement must be in writing and either personally delivered or sent by nationally recognized overnight carrier to the parties at the following addresses:

To the School:

Maryhaven Center of Hope
51 Terryville Road
Port Jefferson, New York 11776

To the District:

Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Attention: Assistant Superintendent for Business and Operations

With a copy to:

Lamb & Barnosky, LLP
534 Broadhollow Road, Suite 210
P.O. Box 9034
Melville, New York 11747
Attention: Eugene R. Barnosky, Esq.

If the notice is sent by personal mail, it will be deemed delivered upon receipt and if sent by registered or certified mail, it will be deemed delivered 3 days after so mailing.

13. Entire Agreement: This Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings
and representations, written or oral, by and between the parties.

14. **Modification**: This Agreement may not be changed orally, but only by an agreement in writing signed by the party or parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or provision of this Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.

15. **Governing Law, Choice of Forum and Waiver of Jury Trial**: This Agreement is subject to, governed by, enforced according to and construed according to the laws of the State of New York, without regard to the conflicts of laws provisions thereof. Any dispute arising under this Agreement will be litigated in a New York State Court in Suffolk County, New York. The parties each waive trial by jury in any action concerning this Agreement.

16. **No Assignment**: In accordance with the provisions of General Municipal Law § 109, the School is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of the School’s rights, title, or interest in this Agreement, or the School’s power to execute this Agreement to any other person or corporation without the previous consent in writing from the District.

17. **Third-Party Beneficiaries**: There are no third-party beneficiaries of or in this Agreement, other than NYSIR.

18. **Negotiated Agreement**: This is a negotiated Agreement. It will not be construed against any party by reason of this Agreement being prepared by that party’s attorney. Each party warrants that it/he/she has full power to execute, deliver and perform this Agreement and has taken all actions required by law, organizational documents or otherwise to authorize the execution and delivery of this Agreement.

19. **Iran Divestment Act of 2012**: By signing this Agreement, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its/his/her own organization, under penalty of perjury, that to the best of its/his/her knowledge and belief that each person is not on the list created pursuant New York State Finance Law § 165-a(3)(b).

20. **Plan for Security and Protection of Personally Identifiable Information**:

A. “District Data” means all information obtained by the School from the District or by the School in connection with the Services provided by the School pursuant to this Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publicly available by the District, with the exception of PII from student and personnel data.

B. “Personally Identifiable Information” or “PII” includes, but is not limited to: (i) a person’s name or address or the names or addresses of a student’s parents or other family members; (ii) any personal identifier (e.g., SSN, student number or biometric record); (iii)
indirect identifiers (e.g., date of birth, place of birth, or mother’s maiden name); (iv) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or the School reasonably believes knows the identity of the person to whom a record relates.

C. The School represents and warrants that it will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of District Data.

D. The School represents and warrants that District Data received by the School will be used only to perform the School’s obligations pursuant to this Agreement and for no other purpose.

E. The School represents and warrants that it will only collect data from the District or District employees or other End Users (the term “End Users” means the individuals authorized by the District to access and use services provided by the School pursuant to this Agreement) that is necessary to fulfill the School’s duties pursuant to this Agreement.

F. The Parties agree that all rights including all intellectual property rights in and to District Data will remain the exclusive property of the District and that the School has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

G. The School agrees not to sell District Data and agrees not to use any District Data to advertise or market to District employees or other End Users or use or allow any other person or entity to use District Data for any commercial or marketing purpose, other than to perform the School’s obligations pursuant to this Agreement. “Commercial or marketing purpose” means the sale of District Data or its use or disclosure, whether directly or indirectly, to derive a profit for advertising purposes or to develop, improve or market products or services.

H. The School agrees that, upon receipt of District Data, it will: (i) limit the School’s internal access to District Data to employees with legitimate educational interests (i.e., access will be limited to those employees who must access District Data to implement the terms of this Agreement); (ii) use District Data only for the purposes explicitly authorized by this Agreement; (iii) not disclose any PII from District Data to any other party (a party other than an employee with a legitimate educational interest) without the District’s prior written consent (if necessary, the District will obtain the required consent(s) from third parties), unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order); (iv) maintain reasonable safeguards to maintain confidentiality of PII in District Data and adopt technologies, safeguards and practices that align with the required version of the National Institute for Standards and Technology Framework for Improving Critical Infrastructure and any other legally required cybersecurity frameworks or standards; (v) use legally mandated encryption technology to protect District Data from unauthorized disclosure; and (vi) store all District Data within the United States of America.
I. If the School has access to District Data that is subject to the Family Educational Rights and Privacy Act ("FERPA"), the School acknowledges that for purposes of this Agreement it will be designated as a “school official” with a “legitimate educational interest” pursuant to FERPA and its implementing regulations, and the School agrees to abide by the limitations and requirements imposed on school officials.

J. The School represents and warrants that it will comply with the District’s Parents’ Bill of Rights, as supplemented, to include information about this Agreement, a copy of which is annexed hereto as Exhibit A and is signed by the Parties.

K. The School represents and warrants that it has provided or, within 30 calendar days of the date of this Agreement and prior to allowing any of its employees access to District Data, will provide training, about the State and federal laws and regulations governing confidentiality of District Data to any employee who has access to District Data.

L. Except as prohibited by law, the School will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by the School seeking District Data; (ii) consult with the District regarding its response; (iii) cooperate with the District’s reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and (iv) upon the District’s request, provide the District with a copy of the School’s response.

M. Upon the District’s request, the School agrees that it will promptly make any District Data held by the School available to the District.

N. A breach is any unauthorized access, use or disclosure of District Data. The School agrees to notify the District of any breach. This notification will be made in the most expedient way possible and without delay. The School must also notify the District in writing of the breach. This written notification must be sent by the School within one calendar day of the breach and must be sent to the District by email to the Deputy Superintendent and either personally delivered or sent by nationally recognized overnight carrier to the District. In the event of a breach attributed to the School or the School’s assignees or subcontractors, the School must reimburse the District for all the District’s costs associated with the District’s obligation to notify the State’s chief privacy officer, parents, students, teachers and/or principals of the breach.

O. The parties agree to execute an amendment to this Agreement if required for compliance with any new laws or regulations relating to the confidentiality, security and privacy of data.

P. To the fullest extent permitted by law, the School indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from the District’s notification obligations set forth above in Subparagraph N.

Q. All the provisions of this Paragraph 20 will survive the expiration or sooner termination of this Agreement.
21. **Fingerprinting:** The School will be responsible for compliance with the requirements of all applicable laws, rules and regulations, including, but not limited to Project Save and the Safe Schools Act with respect to any person providing Services involving direct contact with District students. All persons providing Services involving direct contact with District students must receive fingerprinting clearance prior to providing the Services. Written proof of clearance of each person (in form and substance satisfactory to the District) will be provided to the District prior to the provision of Services. The School will inform the District, in writing, within one business day of the School’s receipt of a notice of subsequent arrest (or any other notice related to fingerprinting) for any person providing Services. If any of the School’s employees who are assigned to provide Services do not have the appropriate fingerprinting clearance, the School must give the District the information necessary to process and obtain fingerprint clearance and reimburse the District for the cost to the District of obtaining the clearance. The District will deduct the cost of the fingerprinting clearance from the next payment due to the School. If any person providing Services leaves the employment of the School for any reason, the School must notify the District, in writing, within one calendar week of the end of the person’s employment. If the District has not received sufficient proof of fingerprinting clearance for any person providing Services, the District will deduct the cost of the Services provided by the person from the next payment due to the School. The School agrees that the School will perform or cause a third party to perform a background check of all individuals providing Services. The School further agrees to confirm that all individuals providing Services for which a license is required by the State and for which fingerprinting is required to obtain that license, have in fact been fingerprinted in connection with the issuance of that license.

22. **No End User Agreements:** In the event that the School enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the Agreement will apply.

23. **Execution:** The Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement. The Agreement may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the latter date that appears below.

**HAUPPAUGE UNION FREE SCHOOL DISTRICT**

By: ____________________________
David M. Barshay
President, Board of Education

Date: ____________________________

**MARYHAVEN CENTER OF HOPE**

By: ____________________________
Laura Pepper
Title: VP of Finance

Date: 5/12/2019
CONFIDENTIAL SCHEDULE “A”

Student(s) to whom services shall be provided pursuant to this Agreement:

<table>
<thead>
<tr>
<th>Name</th>
<th>Date of Birth</th>
<th>Attendance at the Following:</th>
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<tbody>
<tr>
<td></td>
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<td>(Check all that apply)</td>
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MARYHAVEN CENTER OF HOPE - 2019-2020 CONTRACT FOR SCHOOL SERVICES
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EXHIBIT A

AGREEMENT BETWEEN MARYHAVEN CENTER OF HOPE ("the School") and the DISTRICT

TERM: JULY 1, 2019 to JUNE 30, 2020

HAUPPAUGE UNION FREE SCHOOL DISTRICT'S PARENTS' BILL OF RIGHTS REGARDING DATA PRIVACY AND SECURITY

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HAUPPAUGE UNION FREE SCHOOL DISTRICT

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY –

Summary of Rights and Information for Parents and Students

The legislature and governor passed a group of bills that adjusted the Regents Education Reform Agenda. These bills are known collectively as the “Common Core Implementation Reform Act.” One of the key components of this act (Chapter 56, Part AA, Subpart L, of the laws of 2014) directs the Commissioner of Education to appoint a Chief Privacy Officer (CPO). A major function of this new position is to work with school districts and parents to develop elements for a parents’ bill of rights to help ensure that student data is private and secure. The State Education Department (SED) and the CPO must also recommend regulations to establish standards for data security and privacy policies that will be implemented statewide.

SED has issued a preliminary Parents’ Bill of Rights for Data Privacy and Security. The Hauppauge Union Free School District is issuing this summary of parents’ rights under the new law. While some additional elements will be developed in conjunction with the CPO, districts, parents and the Board of Regents, this summary sets forth the key rights and information that parents should be aware of in regards to ensuring the privacy and security of their student’s educational data.

The Hauppauge Union Free School District is committed to ensuring student privacy and recognizes that parents, legal guardians, and persons with a parental relationship to a student are entitled to certain rights with regard to their child’s personally identifiable information, as defined by Education Law §2-d. To this end, the District is providing the following Parent’s Bill of Rights for Data Privacy and Security:

1. A student’s personally identifiable information cannot be sold or released for any commercial purposes;

2. Parents have the right to inspect and review the complete contents of their child’s education record;
3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred;

4. A complete list of all student data elements collected by the State is available for public review at http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863, 89 Washington Avenue, New York 12234; and

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to: Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11783 or Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.

If the Hauppauge Union Free School District enters into a third party contract in which the service provider receives student data or teacher or principal data in order to provide a needed service for the District, supplemental information shall be developed and provided to parents that states:

6. The exclusive purposes for which the student data or teacher or principal date will be used;

7. How the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;

8. When the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

9. If and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

10. Where the student data or teacher or principal data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

The CPO as appointed by the Commissioner must secure input from parents and other education and expert stakeholders to develop additional elements for the Parents’ Bill of Rights for Data Privacy and Security. The Commissioner of Education will also be promulgating regulations with a comment period for parents and other members of the public to submit comments and suggestions to the CPO.
In the meantime, you can access additional information and a question and answer document issued by SED as a preliminary Parents’ Bill of Rights for Data Privacy and Security.

If you have any further questions or concerns at this time, please contact Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Dr. Donald B. Murphy, Assistant Superintendent for Curriculum, Instruction, and Technology, Hauppauge UFSD, at (631) 761-8202.

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This Bill of Rights will be included with every contract entered into by the District with an outside contractor if the contractor will receive student data or teacher or principal data. This Bill of Rights will be supplemented to include information about each contract that the District enters into with an outside contractor receiving confidential student data or teacher or principal data, including the exclusive purpose(s) for which the data will be used, how the contractor will ensure confidentiality and data protection and security requirements, the date of expiration of the contract and what happens to the data upon the expiration of the contract, if and how the accuracy of the data collected can be challenged, where the data will be stored and the security protections that will be taken.

“District Data” means all information obtained by the School from the District or by the School in connection with the services provided by the School pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District, with the exception of Personally Identifiable Information from student and personnel data.

(1) **Use of District Data by the School.** The District Data received by the School will be used only to perform the School’s obligations pursuant to the Agreement and for no other purpose.

(2) **Storage and Security Protections.** The School will store and process District Data in compliance with Education Law § 2-d(5) and applicable regulations of the Commissioner of Education, if any, as the same may be amended from time to time, and in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure District Data from unauthorized access, disclosure, alteration and use. The School will use legally-required, industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services pursuant to the Agreement. School will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

The following paragraphs describe (in such a manner as to protect data security) the specific storage methods and security protections used by the School to protect District Data:

(a) **Storage of Electronic Data:**

**MARYHAVEN CENTER OF HOPE - 2019-2020 CONTRACT FOR SCHOOL SERVICES**

- 16 -
(b) Storage of Non-Electronic Data: Files stored in a locked room with locked file cabinets. The room is staffed by a full time record coordinator who also ensures the security of the files.  

(c) Personnel/Workforce Security Measures: Initial - Annual training of all staff on Information Sharing, Privacy, Corporate Compliance and HR Policies - procedures require terminated employees returning agency property.  

(d) Physical Security Measures: Keys to the employee office door are secured in a filing cabinet. Common external doors are monitored.  

(e) Receiptionist, Visitors must be buzzed in - received by staff member. They are not left alone when files are stored.  

(f) All electronic District Data will be protected by the School through the use of encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).  

(3) **Sharing Information with Other Persons and Entities.** The School will only share District Data with entities or persons authorized by the Agreement. To the extent that District Data will be shared by the School with other authorized entities or persons not employed by the School, the School will ensure that those persons or entities will be required to agree in writing that it/they will comply with all terms of the Agreement’s Plan for Security and Protection of Personally Identifiable Information, and any other Agreement provision relating to confidentiality of records and data security and privacy, including, but not limited to this Exhibit A.  

(4) **Destruction/Return of Data.** Upon the termination of the Agreement for any reason, the School will, as directed by the District in writing, securely destroy (“securely destroy” means taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means) or return all District Data received by the School as soon as reasonably possible. The District’s decision will be made in connection with all applicable laws, including the New York Arts and Cultural Affairs Law and the Records Retention and Disposition Schedule ED-1. In connection with the secure destruction of any District Data, the School will provide a certificate of destruction (form and substance satisfactory to the District) to the District.  

(5) **Challenge to Accuracy of Data.** A parent or guardian, student, teacher or principal can challenge the accuracy of the Data received by the School by following applicable law (e.g., Family Educational Rights and Privacy Act),
employment agreements, and policies, rules and regulations. If the School receives a challenge to the accuracy of Data from a parent or guardian, student, teacher or principal, the School will notify the District in writing. The School will not amend any Data without a written request from the District.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ______________________________
    David M. Barshay
    President, Board of Education

Date: ______________________________

MARYHAVEN CENTER OF HOPE

By: ______________________________
    Laura Pepper
    Name: Laura Pepper
    Title: VP of Finance

Date: 6/12/19
INSTRUCTIONS FOR PARENTS BILL OF RIGHTS

Exhibit A contains information required by New York Education Law § 2-d and includes information that makes up part of the mandated Plan for Protection of Personally Identifiable Information. It should contain detailed information about data storage and security measures. The School must describe the ways it will store District Data and the specific security protections that will be used by the School to protect District Data. Please note that these descriptions are part of a publicly accessible document and must be written in a manner that will protect the School’s data security.

Below, we list examples for each storage/security category set forth in Exhibit A. These are only examples and the School must describe the specific storage methods and security protections it uses (again, the description must be written in a manner that will protect the School’s data security). The amount of information included should not be limited by the space provided.

Examples:

(a) Storage of Electronic Data:
   • In the Cloud (specify types, private or public, etc.)
   • On the School’s server

(b) Storage of Non-Electronic Data:
   • Files stored in locked filing cabinets

(c) Personnel/Workforce Security Measures:
   • Describe internal policies regulating access to information and sharing information amongst coworkers
   • Describe policies relating to the requirement to return all data and property to the School upon an employee’s separation from employment

(d) Account Management and Access Control:
   • Use of unique user-IDS
   • Use of passwords that are regularly and frequently updated
   • Use of automatic techniques to terminate a session upon specific conditions (e.g., idle time)
   • Policy to disable employee accounts upon termination from employment

(e) Physical Security Measures:
   • Describe security barriers and access controls (e.g., locking of doors, desks and filing cabinets)
   • Describe visitor policies (e.g., visitors are escorted at all times when visiting information processing and storage facilities)
TO: Jacqueline Pirro
FROM: Lois Jankeloff
DATE: June 11, 2019
SUBJECT: Contracts 2019-20

Please have the Board of Education sign and approve the following contracts:

Provider: Metro Therapy, Inc.
Term: 7/1/19 to 6/30/20
Cost: Cost varies according to service
Service: Various Services
CONTRACT FOR CONSULTANT SERVICES

AGREEMENT dated as of the ___ day of ______________, 2019 between the HAUPPAUGE UNION FREE SCHOOL DISTRICT ("the District"), having its administrative offices at 495 Hoffman Lane, Hauppauge, New York, 11788-2836 and METRO THERAPY INC. ("the Consultant"), having an office at 1363-8 Veterans Memorial Highway, Hauppauge, New York 11788.

In consideration of the mutual covenants and conditions contained in this Agreement, the District and the Consultant hereby agree as follows:

1. **Retention:** The District retains the Consultant and the Consultant agrees to provide the District with the following services ("the Services") and the Consultant makes the representations and warranties hereinafter set forth:

   a. The Consultant agrees to provide therapy and special education services, related services, autism and behavior intervention services, functional behavior assessments services, translation services, staff development and training services, and evaluations of District students upon request. The Services must be appropriate to the mental ability and physical condition of the children, and in accordance with applicable laws, rules and regulations and currently approved methods and practices of the profession.

   b. The Consultant agrees, at no additional cost, to provide all written reports required by this Agreement. The Consultant agrees to submit to the District: (i) written progress reports regarding student achievement of objectives on a quarterly basis pursuant to the District’s report card schedule and upon the District’s request; (ii) a written annual progress report for each student to be reviewed at each student’s Committee on Special Education meeting; and (iii) a written report to the District within 10 business days of any evaluation.

   c. All services must be provided in strict compliance with the student’s Individualized Education Plan.

   d. The Consultant represents and warrants that it is duly licensed and authorized to perform the Services and that it will provide the District with licensed and qualified individuals to perform the Services. The Consultant represents and warrants that the Services will be performed by individuals that are licensed pursuant to State, federal and local laws, regulations and rules. Upon the District’s request, the Consultant agrees to submit to the District proof of certification and/or professional licensing of all individuals providing Services.

   e. The individuals providing Services are subject to the District’s approval, and the District reserves the right to reject the placement of any individual.

   f. The Consultant further agrees to complete and submit, upon the request of the District, all forms to document the Services provided to Medicaid-eligible school-aged students, for Medicaid reimbursement purposes. Consultant represents and warrants it has never been excluded from Medicare, Medicaid, or any health care benefit program funded by the Federal government. The Consultant represents and warrants, as a material term of this Agreement, that neither it nor any of its employees is/are:
i. Currently excluded from or otherwise ineligible to participate in any federal or State health care program, including those defined in 42 U.S.C. § 1320a-7b(f);

ii. The subject of any pending exclusion proceeding; or

iii. The subject of an adjudication or determination that it/they have committed any action that could subject the Consultant to exclusion from governmental programs (collectively, "exclusion activity").

Additionally, the Consultant agrees that, as a continuing obligation of this Agreement, the Consultant will:

i. Maintain documentation evidencing monthly exclusion checks, and will produce the documentation to the District upon its request; and

ii. Report in writing to the District any exclusion activity involving the Consultant as soon as practicable after the Consultant learns of the exclusion activity.

The Consultant will obtain whatever releases or other legal documents that are necessary for the Consultant to render full and complete reports concerning the progress of the pupil(s) covered by this Agreement.

The Consultant hereby agrees to furnish to the State all reports, audits, and other documentation or information required to make determinations as to eligibility pursuant to State or federal laws, regulations or rules. Those materials must be furnished at all times as required by the State. Failure to submit required materials within ten business days of demand or as required by law will constitute a material breach of this Agreement. The Consultant agrees to provide the State access to all relevant records which the State requires to determine the Consultant’s or the District’s compliance with applicable State or federal laws, regulations or rules. The Consultant agrees to retain all materials and records relevant to the execution or performance of the Agreement in accordance with the requirements of applicable law, but in no event less than six years from the date of this Agreement.

The Consultant must furnish each individual providing Services with a photo identification badge to be worn at all times while the individual is providing Services.

The Consultant hereby agrees to furnish written progress reports to the District at any time that the reports are made to the parents of the pupil(s) covered by this Agreement and will render additional reports upon the District’s request. All reports must be furnished upon termination of the Agreement. The Consultant must provide any additional information concerning a pupil’s progress upon the District’s request.
2. **Compensation:** The District will compensate the Consultant at the following rates:

**Individual Session**

O.T.R., PT, Speech, Social Work  
(includes push-ins, pull-outs, consultation and observations)  
$40.00/½ hour

C.O.T.A. (Certified O.T. Assistant)  
(includes push-ins, pull-outs, consultation and observations)  
$35.50/½ hour

Vision Services  
$60.00/½ hour

Teacher of the Deaf Services  
$60.00/½ hour

**Group Session (up to 5 Students)**

O.T.R., PT, Speech, Social Work  
(includes push-ins and pull-out sessions)  
$60.00/½ hour

C.O.T.A. (Certified O.T. Assistant)  
(includes push-ins and pull-out sessions)  
$55.00/½ hour

**Screenings**  
$45.00 per screening

**Evaluations**

OT/PT.  
$150.00 each

Speech  
$250.50 each

Psychological  
$450.00 each

Social History  
$100.00 each

Psychological/Ed  
$700.00 each

Education by Psychologist  
$350.00 each

Education by Spec Educator  
$250.00 each

Bilingual OT/PT  
$195.00 each

Bilingual Speech  
$350.00 each

Bilingual Psychological  
$500.00 each

Bilingual Psychological/Ed  
$800.00 each

Bilingual Psychological/Social History  
$600.00 each

Bilingual Education by Psychologist  
$450.00 each

Assistive Technology  
$1,500.00 each

Vision and Hearing  
$300.00 each

Orientation and Mobility  
$1,200.00 each

**Whole Classroom Push-ins OT**  
$70.00/½ hour

**Handwriting Groups**  
$65.00/½ hour  
up to 8 children
Behavior Intervention
Consults $125.00/hour
FBA/BIP $125.00/hour
Autism/PDD Training $175.00/hour

Translations
Reports $35.00/page
Interpreting $50.00/hour
Proctoring $50.00/hour

CSE Meetings $40.00/½ hour

Asst Technology Consults $200.00/hour

Special Rate Schedule

- All Services except Resource Room provided in the home, private or parochial schools will be billed at the rate of $50.00 per half hour session per child.
- Resource Room will be billed at the rate of $45.00 per 30 minute individual session per child and $35.00 per 30 minute session per child if in a group of two, and $30.00 per child per 30 minute session for a group of 3-5.
- Home Tutoring - $65.00 per hour.
- Teacher’s Assistant - $40.00 per hour.

Staff Development – in services, workshops, consultative meetings

- $1,100.00 per day; $600.00 ½ day
- $250.00 per hour – 2 hours or less

Scheduling Consultation – A ½ per session fee ($20.00) will be charged per student, during the first two weeks of the school year until scheduling is completed. Scheduling is meeting the child, meeting the teachers and all staff, and preparing the schedule.

NYSSAA BOCES Trainings – $750.00 per day, $400.00 per ½ day

The District will not incur any charges if the Consultant, its employees, and/or agents fail to attend a session for any reason whatsoever. If a student is absent or unable to attend a session, for any reason whatsoever, the District is not responsible for payment of any fee(s) associated with such services. The District will endeavor to notify Consultant of a student’s absence whenever practicable.
The Consultant must submit monthly invoices in form and substance satisfactory to the District for the Consultant's Services. The District will pay the Consultant within 60 calendar days of its receipt, review and approval of the invoice.

3. **Term:** This Agreement is for Services provided from July 1, 2019 to June 30, 2020, unless this Agreement is terminated earlier as herein provided. The Consultant acknowledges that the District is under no obligation to renew this Agreement upon its expiration.

4. **Independent Contractor:** The Consultant is retained by the District only for the purposes and to the extent set forth in this Agreement. The Consultant's relation to the District is solely that of an independent contractor during the period of the Consultant's retention and delivery of Services hereunder.

   Neither the Consultant nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker's Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance or malpractice insurance. With regard to employees of the Consultant, the Consultant alone is responsible for their work, personal conduct, direction, compensation, and for payment of all employment, income and other taxes in relation thereto.

5. **Indemnification:** To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney's fees and disbursements) arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the performance of the Consultant's Services hereunder, or the action of, or the failure to act by the Consultant, the Consultant's representatives or employees, or anyone for whose acts the Consultant may be liable.

   In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from the Consultant pursuant to the provisions of this Paragraph 5, the District will promptly notify the Consultant of the suit, claim or demand, and give the Consultant an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the Consultant in connection with the defense, which will be at the expense of the Consultant. In the event that the Consultant fails to defend the same within 30 calendar days of receipt of the notice, the District will be entitled to assume the defense thereof, and the Consultant will be liable to repay the District for all its expenses reasonably incurred in connection with the defense (including reasonable attorney's fees, disbursements, expert witness fees and settlement payments). The failure of the District to notify the Consultant of a legal proceeding, claim or demand will not relieve the Consultant of any obligation that the Consultant has pursuant to this Paragraph 5 unless and only to the extent that the failure to notify the Consultant materially prejudices the Consultant.

   The Consultant agrees not to enter into any waiver, release or settlement of any legal proceeding, claim or demand for which indemnification may be sought hereunder without the prior written consent of the District (which consent will not be unreasonably withheld).
All of the provisions of this Paragraph 5 will survive the expiration or sooner termination of this Agreement.

6. **Expenses:** The Consultant will pay all expenses incurred in connection with the performance of the Consultant’s duties hereunder including, but not limited to, automobile and/or travel expenses.

7. **Required Records:** The Consultant will provide services and maintain records, logs and reports in accordance with all applicable laws, regulations and requirements of the New York State Education Department, the New York State Department of Labor and District policies and procedures in force during the term of this Agreement. All student records and logs will be the property of the District. The Consultant must provide the District with a copy of any reports, tests, evaluations or observations that are prepared in connection with the Services provided by the Consultant pursuant to this Agreement.

8. **Review of Records:** The District will have the right to examine any or all records or accounts maintained by the Consultant in connection with this Agreement.

9. **District’s Policies/Authority:** The Consultant certifies that it has reviewed and is familiar with the policies, rules and regulations of the District including, but not limited to, the District’s anti-harassment and anti-discrimination policies and regulations and the District’s Code of Conduct (collectively, “the Policies”). The Consultant will ensure that its employees, representatives, agents and subcontractors and any other person providing services or present on District property pursuant to this Agreement (collectively, “Consultant’s Service Providers”) review and become familiar with the Policies. Copies of the Policies are available at http://www.hauppauge.k12.ny.us/domain/602. The Consultant agrees that it will comply with the Policies and will cause Consultant’s Service Providers to do the same.

THE CONSULTANT HEREBY CONFIRMS THAT IT HAS IMPLEMENTED A WRITTEN ANTI-SEXUAL HARASSMENT POLICY THAT MEETS OR EXCEEDS THE REQUIREMENTS OF NEW YORK LABOR LAW SECTION 201-G AND THAT ANNUAL TRAINING REGARDING THIS POLICY IS AND WILL BE PROVIDED TO ALL OF ITS EMPLOYEES CONSISTENT WITH LAW.

Any allegation that the Consultant or one of Consultant’s Service Providers has been subjected to harassment or discrimination while providing services or while present on District property pursuant to this Agreement must be reported immediately to the Assistant Superintendent for Personnel & Administration (or to the Superintendent if the Assistant Superintendent for Personnel & Administration is the subject of the allegation or concern). The Consultant confirms that it has notified the Consultant’s Service Providers of this requirement.

The Consultant will carry out the orders, directions and policies conveyed by the District from time to time either orally or in writing, provided, however, that the Consultant will determine the manner of carrying out the Consultant’s professional duties hereunder consistent with the Consultant’s status as an independent contractor.

10. **Insurance:** The Consultant will obtain and keep in full force and effect during the term of this Agreement, at the Consultant’s sole cost and expense, the following insurance:

-6-
a. **Commercial General Liability Insurance**

$1,000,000 per occurrence/$2,000,000 aggregate (must include coverage for sexual misconduct).

b. **Workers' Compensation and N.Y.S. Disability**

Statutory Workers' Compensation, Employers' Liability and N.Y.S. Disability Benefits Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable.

A self-employed person and certain partners and corporate officers are excluded from the definition of "employee" pursuant to Workers' Compensation Law Section 2(4). As such, individuals in such capacity are excluded from Workers' Compensation Law coverage requirements. A person seeking an exemption must file a CE-200 form with the State. The form may be completed and submitted directly online to the Workers Compensation Board: http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp

c. **Professional Errors and Omissions Insurance**

$2,000,000 per occurrence/ $2,000,000 aggregate for the professional acts of the Consultant performed under this Agreement for the District. If written on a "claims-made" basis, the retroactive date must pre-date the inception of this Agreement. Coverage must remain in effect for two calendar years following the completion of work.

d. **Excess Insurance**

$3,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Consultant hereby agrees to effectuate the naming of the District as an additional insured on the Consultant's insurance policies, with the exception of workers' compensation, N.Y. State disability and professional liability. Each policy naming the District as an additional insured must:

- be an insurance policy from an A.M. Best rated "secure" or better insurer, licensed in New York State;

- state that the Consultant's coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers.

The District must be listed as an additional insured by using endorsement CG 2026 or its equivalent. The decision to accept an alternative endorsement rests solely with the District. A completed copy of the endorsement must be attached to the certificate of insurance and the certificate
must state that the endorsement is being used. The certificate of insurance must describe the specific services provided by the Consultant (e.g., physical therapy, psychological services) that are covered by the commercial general liability policy and the umbrella policy. At the District’s request, the Consultant will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Consultant will provide a copy of the policy endorsements and forms.

The Consultant hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Consultant, to the extent not covered by the applicable policy.

If a policy is written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement.

The Consultant acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The Consultant must provide the District with proof satisfactory to the District that the above requirements have been met, prior to the commencement of work or use of District facilities. The failure of the District to object to the contents of the certificate or the absence of same will not be deemed a waiver of any and all rights held by the District. Upon request, the Consultant will provide the District with a copy of the Consultant’s applicable insurance policies including any endorsements, modifications, or exclusions thereto.

The District is a member/owner of the New York Schools Insurance Reciprocal (“NYSIR”). The Consultant acknowledges that the procurement of that insurance as required herein is intended to benefit not only the District, but also NYSIR as the District’s insurer.

The District, in its sole discretion, may waive one or more of the requirements set forth in this paragraph. A waiver must be in writing and signed by an authorized representative of the District.

11. **Safeguarding Information**: Neither the Consultant nor the District will use or disclose any information concerning the Services pursuant to this Agreement for any purpose which is prohibited by Federal and State statutes and/or regulations.

12. **Termination**:

A. This Agreement may be terminated by the District “for cause” upon the occurrence of any of the following events:

   (1) Immediately upon the District delivering written notice to the Consultant of a breach by the Consultant of any of the policies, rules and regulations of the District relating to the health or safety of students or District employees;

   (2) Immediately upon the Consultant’s breach of the Consultant’s obligations to provide the insurance coverage set forth in Paragraph 10;

   (3) Immediately upon the Consultant’s breach of any of the Consultant’s obligations pursuant to, or violation of, any applicable State or federal law or regulation; or
(4) Fifteen calendar days after the Consultant has received written notice from the District that the Consultant has breached any of the Consultant's other obligations hereunder unless, within the 15 calendar day period, the Consultant cures the breach to the District's satisfaction.

(5) Upon termination of this Agreement "for cause," the Consultant is not entitled to any further payments hereunder.

B. This Agreement is automatically terminated upon the Consultant's filing of a voluntary petition in bankruptcy or making an assignment for the benefit of creditors, or upon other action taken or suffered, voluntarily or involuntarily, pursuant to any federal or state law for the benefit of insolvents, and upon the filing of an involuntary petition in bankruptcy against the Consultant which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph 12(B), the Consultant is not entitled to any further payments hereunder.

C. This Agreement may be terminated, at any time, by the District for convenience upon 30 calendar days' written notice to the Consultant. Upon termination of this Agreement for convenience by the District, the Consultant is entitled to receive all sums due, accrued and unpaid as of the date of termination.

D. In the event of termination for any reason, all reports and Services due to the District must be completed by the Consultant and delivered to the District within 30 calendar days of the termination date.

13. Signing of Acknowledgement: The Consultant agrees to complete and sign an Acknowledgement Form with regard to the New York State Education Department Waiver for the New York State Public Retirement System with respect to each owner of the Consultant and each principal employee of the Consultant. A schedule of such persons is attached as Exhibit A.

14. Notices: Any notices required or permitted to be given pursuant to the terms of this Agreement must be in writing and either personally delivered or sent by nationally recognized overnight carrier to the parties at the following addresses:

To the Consultant:
Metro Therapy Inc.
P.O. Box 6005
Hauppauge, New York 11788-9005

To the District:
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Attention: Assistant Superintendent for Business and Operations

With a copy to:
Lamb & Barnosky, LLP
534 Broadhollow Road, Suite 210
P.O. Box 9034
Melville, New York 11747
Attention: Eugene R. Barnosky, Esq.
If the notice is sent by personal mail, it will be deemed delivered upon receipt and if sent by registered or certified mail, it will be deemed delivered 3 days after so mailing.

15. **Entire Agreement:** This Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, by and between the parties.

16. **Modification:** This Agreement may not be changed orally, but only by an agreement in writing signed by the party or parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or provision of this Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.

17. **Governing Law, Choice of Forum and Waiver of Jury Trial:** This Agreement is subject to, governed by, enforced according to and construed according to the laws of the State of New York, without regard to the conflicts of laws provisions thereof. Any dispute arising under this Agreement will be litigated in a New York State Court in Suffolk County, New York. The parties each waive trial by jury in any action concerning this Agreement.

18. **No Assignment:** In accordance with the provisions of General Municipal Law § 109, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of the Consultant’s rights, title, or interest in this Agreement, or the Consultant’s power to execute this Agreement to any other person or corporation without the previous consent in writing from the District.

19. **Third-Party Beneficiaries:** There are no third-party beneficiaries of or in this Agreement, other than NYSIR.

20. **Negotiated Agreement:** This is a negotiated Agreement. It will not be construed against any party by reason of this Agreement being prepared by that party’s attorney. Each party warrants that it/he/she has full power to execute, deliver and perform this Agreement and has taken all actions required by law, organizational documents or otherwise to authorize the execution and delivery of this Agreement.

21. **Iran Divestment Act of 2012:** By signing this Agreement, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its/his/her own organization, under penalty of perjury, that to the best of its/his/her knowledge and belief that each person is not on the list created pursuant New York State Finance Law § 165-a(3)(b).

22. **Plan for Security and Protection of Personally Identifiable Information:**

   A. “District Data” means all information obtained by the Consultant from the District or by the Consultant in connection with the Services provided by the Consultant pursuant to this Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District, with the exception of PHI from student and
personnel data.

B. "Personally Identifiable Information" or "PII" includes, but is not limited to: (i) a person's name or address or the names or addresses of a student's parents or other family members; (ii) any personal identifier (e.g., SSN, student number or biometric record); (iii) indirect identifiers (e.g., date of birth, place of birth, or mother's maiden name); (iv) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or Consultant reasonably believes knows the identity of the person to whom a record relates.

C. The Consultant represents and warrants that it will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of District Data.

D. The Consultant represents and warrants that District Data received by the Consultant will be used only to perform Consultant's obligations pursuant to this Agreement and for no other purpose.

E. The Consultant represents and warrants that it will only collect data from the District or District employees or other End Users (the term "End Users" means the individuals authorized by the District to access and use services provided by the Consultant pursuant to this Agreement) that is necessary to fulfill the Consultant's duties pursuant to this Agreement.

F. The Parties agree that all rights including all intellectual property rights in and to District Data will remain the exclusive property of the District and that the Consultant has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

G. The Consultant agrees not to sell District Data and agrees not to use any District Data to advertise or market to District employees or other End Users or use or allow any other person or entity to use District Data for any commercial or marketing purpose, other than to perform the Consultant's obligations pursuant to this Agreement. "Commercial or marketing purpose" means the sale of District Data or its use or disclosure, whether directly or indirectly, to derive a profit for advertising purposes or to develop, improve or market products or services.

H. The Consultant agrees that, upon receipt of District Data, it will: (i) limit the Consultant's internal access to District Data to employees with legitimate educational interests (i.e., access will be limited to those employees who must access District Data to implement the terms of this Agreement); (ii) use District Data only for the purposes explicitly authorized by this Agreement; (iii) not disclose any PII from District Data to any other party (a party other than an employee with a legitimate educational interest) without the District's prior written consent (if necessary, the District will obtain the required consent(s) from third parties), unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order); (iv) maintain reasonable safeguards to maintain confidentiality of PII in District Data and adopt technologies, safeguards and practices that align with the required version of the National Institute for Standards and Technology Framework for Improving Critical Infrastructure and any other legally required cybersecurity frameworks or standards; (v) use legally mandated encryption
technology to protect District Data from unauthorized disclosure; and (vi) store all District Data within the United States of America.

I. If the Consultant has access to District Data that is subject to the Family Educational Rights and Privacy Act ("FERPA"), the Consultant acknowledges that for purposes of this Agreement it will be designated as a “school official” with a “legitimate educational interest” pursuant to FERPA and its implementing regulations, and the Consultant agrees to abide by the limitations and requirements imposed on school officials.

J. The Consultant represents and warrants that it will comply with the District’s Parents’ Bill of Rights, as supplemented, to include information about this Agreement, a copy of which is annexed hereto as Exhibit B and is signed by the Parties.

K. The Consultant represents and warrants that it has provided or, within 30 calendar days of the date of this Agreement and prior to allowing any of its employees access to District Data, will provide training, about the State and federal laws and regulations governing confidentiality of District Data to any employee who has access to District Data.

L. Except as prohibited by law, the Consultant will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by Consultant seeking District Data; (ii) consult with the District regarding its response; (iii) cooperate with the District’s reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and (iv) upon the District’s request, provide the District with a copy of Consultant’s response.

M. Upon the District’s request, the Consultant agrees that it will promptly make any District Data held by the Consultant available to the District.

N. A breach is any unauthorized access, use or disclosure of District Data. The Consultant agrees to notify the District of any breach. This notification will be made in the most expedient way possible and without delay. The Consultant must also notify the District in writing of the breach. This written notification must be sent by the Consultant within one calendar day of the breach and must be sent to the District by email to the Deputy Superintendent and either personally delivered or sent by nationally recognized overnight carrier to the District. In the event of a breach attributed to the Consultant or the Consultant’s assignees or subcontractors, the Consultant must reimburse the District for all the District’s costs associated with the District’s obligation to notify the State’s chief privacy officer, parents, students, teachers and/or principals of the breach.

O. The parties agree to execute an amendment to this Agreement if required for compliance with any new laws or regulations relating to the confidentiality, security and privacy of data.

P. To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from the District’s notification obligations set forth above in Subparagraph N.
Q. All the provisions of this Paragraph 22 will survive the expiration or sooner termination of this Agreement.

23. **Fingerprinting:** The Consultant will be responsible for compliance with the requirements of all applicable laws, rules and regulations, including, but not limited to Project Save and the Safe Schools Act with respect to any person providing Services involving direct contact with District students. All persons providing Services involving direct contact with District students must receive fingerprinting clearance prior to providing the Services. Written proof of clearance of each person (in form and substance satisfactory to the District) will be provided to the District prior to the provision of Services. The Consultant will inform the District, in writing, within one business day of the Consultant’s receipt of a notice of subsequent arrest (or any other notice related to fingerprinting) for any person providing Services. If any of the Consultant’s employees who are assigned to provide Services do not have the appropriate fingerprinting clearance, the Consultant must give the District the information necessary to process and obtain fingerprint clearance and reimburse the District for the cost to the District of obtaining the clearance. The District will deduct the cost of the fingerprinting clearance from the next payment due to the Consultant. If any person providing Services leaves the employment of the Consultant for any reason, the Consultant must notify the District, in writing, within one calendar week of the end of the person’s employment. If the District has not received sufficient proof of fingerprinting clearance for any person providing Services, the District will deduct the cost of the Services provided by the person from the next payment due to the Consultant. Consultant agrees that Consultant will perform or cause a third party to perform a background check of all individuals providing Services. Consultant further agrees to confirm that all individuals providing Services for which a license is required by the State and for which fingerprinting is required to obtain that license, have in fact been fingerprinted in connection with the issuance of that license.

24. **No End User Agreements:** In the event that the Consultant enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the Agreement will apply.

25. **Execution:** The Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement. The Agreement may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the latter date that appears below.

**HAUPPAUGE UNION FREE SCHOOL DISTRICT**

By: ____________________________
David M. Barshay
President, Board of Education

Date: ____________________________

**METRO THERAPY INC.**

By: ____________________________
Conrad Kupferman
Name: Conrad Kupferman
Title: VP

Date: 2/3/2019
EXHIBIT A
ACKNOWLEDGMENT WITH REGARD TO THE NEW YORK STATE EDUCATION
DEPARTMENT WAIVER

Complete one of the following paragraphs:

1. I, Conrad Kupferman verify that I am not a retired member of any New York State
   Public Retirement System, and therefore do not require a waiver from the New York State Education
   Department to perform the duties for which I have contracted.

   [Signature]
   [Date]

2. I, __________________________ verify that I am a retired member of a New York State Public
   Retirement System but all collective earnings from any public employment in New York State will not
   and does not exceed the current earnings limitation. Therefore, I do not require a waiver from the New
   York State Education Department to perform the duties for which I have contracted.

   [Signature]
   [Date]

3. I, __________________________ verify that I am a retired member of a New York State Public
   Retirement System and I expect that my collective earnings from any public employment in New York
   State will exceed the current earnings limitation. Therefore, I require a waiver from the New York
   State Education Department and I request that ______________________ School District file a request
   for the waiver on my behalf.

   [Signature]
   [Date]

4. I, __________________________ verify that I am a retired member of any New York State
   Public Retirement System, but I do not require a waiver from the New York State Education
   Department to perform the duties for which I have contracted because I am at least 65 years old.

   [Signature]
   [Date]
EXHIBIT B

AGREEMENT BETWEEN METRO THERAPY INC. ("the Consultant") and the DISTRICT

TERM: JULY 1, 2019 to JUNE 30, 2020

HAUPPAUGE UNION FREE SCHOOL DISTRICT'S PARENTS' BILL OF RIGHTS REGARDING DATA PRIVACY AND SECURITY

*****************************************************************************

HAUPPAUGE UNION FREE SCHOOL DISTRICT

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY –

Summary of Rights and Information for Parents and Students

The legislature and governor passed a group of bills that adjusted the Regents Education Reform Agenda. These bills are known collectively as the “Common Core Implementation Reform Act.” One of the key components of this act (Chapter 56, Part AA, Subpart L, of the laws of 2014) directs the Commissioner of Education to appoint a Chief Privacy Officer (CPO). A major function of this new position is to work with school districts and parents to develop elements for a parents’ bill of rights to help ensure that student data is private and secure. The State Education Department (SED) and the CPO must also recommend regulations to establish standards for data security and privacy policies that will be implemented statewide.

SED has issued a preliminary Parents’ Bill of Rights for Data Privacy and Security. The Hauppauge Union Free School District is issuing this summary of parents’ rights under the new law. While some additional elements will be developed in conjunction with the CPO, districts, parents and the Board of Regents, this summary sets forth the key rights and information that parents should be aware of in regards to ensuring the privacy and security of their student’s educational data.

The Hauppauge Union Free School District is committed to ensuring student privacy and recognizes that parents, legal guardians, and persons with a parental relationship to a student are entitled to certain rights with regard to their child’s personally identifiable information, as defined by Education Law §2-d. To this end, the District is providing the following Parent’s Bill of Rights for Data Privacy and Security:

1. A student’s personally identifiable information cannot be sold or released for any commercial purposes;

2. Parents have the right to inspect and review the complete contents of their child’s education record;

3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred;
4. A complete list of all student data elements collected by the State is available for public review at http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863, 89 Washington Avenue, New York 12234; and

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to: Dr. Dennis P. O'Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.

If the Hauppauge Union Free School District enters into a third party contract in which the service provider receives student data or teacher or principal data in order to provide a needed service for the District, supplemental information shall be developed and provided to parents that states:

6. The exclusive purposes for which the student data or teacher or principal date will be used;

7. How the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;

8. When the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

9. If and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

10. Where the student data or teacher or principal data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

The CPO as appointed by the Commissioner must secure input from parents and other education and expert stakeholders to develop additional elements for the Parents' Bill of Rights for Data Privacy and Security. The Commissioner of Education will also be promulgating regulations with a comment period for parents and other members of the public to submit comments and suggestions to the CPO.

In the meantime, you can access additional information and a question and answer document issued by SED as a preliminary Parents' Bill of Rights for Data Privacy and Security.

If you have any further questions or concerns at this time, please contact Dr. Dennis P. O'Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Dr. Donald B. Murphy, Assistant Superintendent for Curriculum, Instruction, and Technology, Hauppauge UFSD, at (631) 761-8202.

*****************************************************************************
This Bill of Rights will be included with every contract entered into by the District with an outside contractor if the contractor will receive student data or teacher or principal data. This Bill of Rights will be supplemented to include information about each contract that the District enters into with an outside contractor receiving confidential student data or teacher or principal data, including the exclusive purpose(s) for which the data will be used, how the contractor will ensure confidentiality and data protection and security requirements, the date of expiration of the contract and what happens to the data upon the expiration of the contract, if and how the accuracy of the data collected can be challenged, where the data will be stored and the security protections that will be taken.

"District Data" means all information obtained by the Consultant from the District or by the Consultant in connection with the services provided by Consultant pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, "District Data" does not include any information made publically available by the District, with the exception of Personally Identifiable Information from student and personnel data.

Use of District Data by Consultant. The District Data received by the Consultant will be used only to perform Consultant's obligations pursuant to the Agreement and for no other purpose.

1. Storage and Security Protections. The Consultant will store and process District Data in compliance with Education Law § 2-d(5) and applicable regulations of the Commissioner of Education, if any, as the same may be amended from time to time, and in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure District Data from unauthorized access, disclosure, alteration and use. The Consultant will use legally-required, industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services pursuant to the Agreement. Consultant will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

The following paragraphs describe (in such a manner as to protect data security) the specific storage methods and security protections used by the Consultant to protect District Data:

(a) Storage of Electronic Data: Electronic data is stored on a secure and password protected proprietary computer system that encrypts information. Data is accessible only to relevant providers and agency personnel.

(b) Storage of Non-Electronic Data: Non-electronic data is stored in locked units accessible only to designated staff. Archived non-electronic data is housed in a secure, off-site facility.

(c) Personnel/Workforce Security Measures: All personnel complete compliance trainings addressing how to safeguard protected health information and personal data. Unique passwords are required for system access which "times out" after periods of inactivity.

(d) Physical Security Measures: All areas of operation are protected by locked doors only.
accessible with an employee access code. Non-employees such as maintenance
workers are accompanied by agency personnel.

(e) Account Management and Access Control: Agency personnel are unique access codes
that are updated regularly. Computer programs automatically close after inactivity & require
passcodes for re-entry. Following separation from agency, all account access is immediately disabled.

(f) All electronic District Data will be protected by the Consultant through the use
of encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).

(2) **Sharing Information with Other Persons and Entities.** The Consultant will only
share District Data with entities or persons authorized by the Agreement. To the extent
that District Data will be shared by the Consultant with other authorized entities or
persons not employed by Consultant, the Consultant will ensure that those persons or
entities will be required to agree in writing that it/they will comply with all terms of the
Agreement’s Plan for Security and Protection of Personally Identifiable Information,
and any other Agreement provision relating to confidentiality of records and data
security and privacy, including, but not limited to this Exhibit B.

(3) **Destruction/Return of Data.** Upon the termination of the Agreement for any reason,
the Consultant will, as directed by the District in writing, securely destroy (“securely
destroy” means taking actions that render data written on physical (e.g., hard copy) or
electronic media unrecoverable by both ordinary and extraordinary means) or return all
District Data received by the Consultant as soon as reasonably possible. The District’s
decision will be made in connection with all applicable laws, including the New York
Arts and Cultural Affairs Law and the Records Retention and Disposition Schedule ED-
1. In connection with the secure destruction of any District Data, the Consultant will
provide a certificate of destruction (form and substance satisfactory to the District) to the
District.

(4) **Challenge to Accuracy of Data.** A parent or guardian, student, teacher or principal
can challenge the accuracy of the Data received by the Consultant by following
applicable law (e.g., Family Educational Rights and Privacy Act), employment
agreements, and policies, rules and regulations. If the Consultant receives a challenge
to the accuracy of Data from a parent or guardian, student, teacher or principal, the
Consultant will notify the District in writing. The Consultant will not amend any Data
without a written request from the District.

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**HAUPPAUGE UNION FREE SCHOOL DISTRICT**

By: ____________________________

David M. Barshay
President, Board of Education

Date: ____________________________

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**METRO THERAPY INC.**

By: ____________________________

Name: Conrad Kupferman
Title: VP

Date: 6/3/15
INSTRUCTIONS FOR PARENTS BILL OF RIGHTS

Exhibit B contains information required by New York Education Law § 2-d and includes information that makes up part of the mandated Plan for Protection of Personally Identifiable Information. It should contain detailed information about data storage and security measures. The Consultant must describe the ways it will store District Data and the specific security protections that will be used by the Consultant to protect District Data. Please note that these descriptions are part of a publically accessible document and must be written in a manner that will protect the Consultant’s data security.

Below, we list examples for each storage/security category set forth in Exhibit B. These are only examples and the Consultant must describe the specific storage methods and security protections it uses (again, the description must be written in a manner that will protect the Consultant’s data security). The amount of information included should not be limited by the space provided.

Examples:

(a) Storage of Electronic Data:
   - In the Cloud (specify types, private or public, etc.)
   - On Consultant’s server

(b) Storage of Non-Electronic Data:
   - Files stored in locked filing cabinets

(c) Personnel/Workforce Security Measures:
   - Describe internal policies regulating access to information and sharing information amongst coworkers
   - Describe policies relating to the requirement to return all data and property to the Consultant upon an employee’s separation from employment

(d) Account Management and Access Control:
   - Use of unique user-IDS
   - Use of passwords that are regularly and frequently updated
   - Use of automatic techniques to terminate a session upon specific conditions (e.g., idle time)
   - Policy to disable employee accounts upon termination from employment

(e) Physical Security Measures:
   - Describe security barriers and access controls (e.g., locking of doors, desks and filing cabinets)
   - Describe visitor policies (e.g., visitors are escorted at all times when visiting information processing and storage facilities
SPECIAL RIDER

FOR COMPLIANCE WITH JUNE 2, 2010 STATE EDUCATION DEPARTMENT GUIDANCE RELATED TO CONTRACTS FOR INSTRUCTION

The parties to the annexed Agreement hereby confirm that METRO THERAPY INC. ("the Consultant") will meet the criteria and guidelines set forth in the attached June 2, 2010 Guidance Memorandum issued by the New York State Education Department concerning contracts for instruction ("the Guidance"). The Consultant further represents that it is capable of meeting the criteria and guidelines set forth in the Guidance. The Consultant also agrees to provide the Hauppauge Union Free School District ("the District") with access and student records necessary for the District to fulfill its supervisory obligations as set forth in the Guidance.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ____________________________ Date: __________________

David M. Barshay
President, Board of Education

METRO THERAPY INC.

By: ____________________________ Date 6/1/19

Name: Conrad Kupferman
Title: VP
HAUPPAUGE PUBLIC SCHOOLS
Office of the Director of Pupil Personnel Services

TO: Jacqueline Pirro
FROM: Lois Jankeloff
DATE: June 11, 2019
SUBJECT: Contracts 2019-20

Please have the Board of Education sign and approve the following contracts:

Provider: MKSA, LLC
Term: 7/1/19 to 6/30/20
Cost: Cost varies according to service
Service: Various Services
CONTRACT FOR CONSULTANT SERVICES

AGREEMENT dated as of the __ day of ____, 2019 between the HAUPPAUGE UNION FREE SCHOOL DISTRICT ("the District"), having its administrative offices at 495 Hoffman Lane, Hauppauge, New York, 11788-2836, and MKSA, LLC ("the Consultant"), having an office at 125 East Bethpage Road, Suite 5, Plainview, New York 11803.

In consideration of the mutual covenants and conditions contained in this Agreement, the District and the Consultant hereby agree as follows:

1. Retention: The District retains the Consultant and the Consultant agrees to provide the District with the following services ("the Services") and the Consultant makes the representations and warranties hereinafter set forth:
   
   a. The Consultant agrees to provide special education services, related services, evaluations of District students and workshop and professional training services upon request. The Services must be appropriate to the mental ability and physical condition of the children, and in accordance with applicable laws, rules and regulations and currently approved methods and practices of the profession.

   b. The Consultant agrees, at no additional cost, to provide all written reports required by this Agreement. Consultant agrees to submit to the District: (i) written progress reports regarding student achievement of objectives on a quarterly basis pursuant to the District’s report card schedule and upon the District’s request; (ii) a written annual progress report for each student to be reviewed at each student’s Committee on Special Education meeting; and (iii) a written report to the District within 10 business days of any evaluation.

   c. All services must be provided in strict compliance with the student’s Individualized Education Plan.

   d. The Consultant represents and warrants that it is duly licensed and authorized to perform the Services and that it will provide the District with licensed and qualified individuals to perform the Services. Consultant further represents and warrants that the Services will be performed by individuals that are licensed pursuant to State, federal and local laws, regulations and rules. Upon the District’s request, the Consultant agrees to submit to the District proof of certification and/or professional licensing of all individuals providing Services.

   e. The individuals providing Services are subject to the District’s approval, and the District reserves the right to reject the placement of any individual.

   f. The Consultant further agrees to complete and submit, upon the request of the District, all forms to document the Services provided to Medicaid-eligible school-aged students, for Medicaid reimbursement purposes. The Consultant represents and warrants it has never been excluded from Medicare, Medicaid, or any health care benefit program funded by the Federal government. Consultant represents and warrants, as a material term of this Agreement, that neither it nor any of its employees is/are:
i. Currently excluded from or otherwise ineligible to participate in any federal or State health care program, including those defined in 42 U.S.C. § 1320 a-7b(f);

ii. The subject of any pending exclusion proceeding; or

iii. The subject of an adjudication or determination that it/they have committed any action that could subject the Consultant to exclusion from governmental programs (collectively, "exclusion activity").

Additionally, the Consultant agrees that, as a continuing obligation of this Agreement, the Consultant will:

i. Maintain documentation evidencing monthly exclusion checks, and will produce the documentation to the District upon its request; and

ii. Report in writing to the District any exclusion activity involving the Consultant as soon as practicable after the Consultant learns of the exclusion activity.

g. The Consultant will obtain whatever releases or other legal documents that are necessary for the Consultant to render full and complete reports concerning the progress of the pupil(s) covered by this Agreement.

h. The Consultant hereby agrees to furnish to the State all reports, audits, and other documentation or information required to make determinations as to eligibility pursuant to State or federal laws, regulations or rules. Those materials must be furnished at all times as required by the State. Failure to submit required materials within ten business days of demand or as required by law will constitute a material breach of this Agreement. The Consultant agrees to provide the State access to all relevant records which the State requires to determine the Consultant's or the District's compliance with applicable State or federal laws, regulations or rules. The Consultant agrees to retain all materials and records relevant to the execution or performance of the Agreement in accordance with the requirements of applicable law, but in no event less than six years from the date of this Agreement.

i. The Consultant must furnish each individual providing Services with a photo identification badge to be worn at all times while the individual is providing Services.

j. The Consultant hereby agrees to furnish written progress reports to the District at any time that the reports are made to the parents of the pupil(s) covered by this Agreement and will render additional reports upon the District’s request. All reports must be furnished upon termination of the Agreement. The Consultant must provide any additional information concerning a pupil’s progress upon the District’s request.
2. **Compensation:** The District will compensate the Consultant at the following rates:

<table>
<thead>
<tr>
<th>Service</th>
<th>Description</th>
<th>Rate for 60 min session</th>
<th>Rate for 30 min session</th>
<th>Rate for 40-45 min session or 1 classroom</th>
<th>Rate for 75 min session</th>
</tr>
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<tr>
<td>Special Education</td>
<td>NYS Certified Teachers</td>
<td>$95.00</td>
<td>$57.00</td>
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<td>$118.75</td>
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<td>ABA, Direct Instruction, SEIT (school aged)</td>
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<tr>
<td>Behavior Invention Svcs, Tutoring</td>
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<td>$95.00</td>
<td>$57.00</td>
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<tr>
<td>Vision</td>
<td></td>
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<td>$75.00</td>
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<td>$120.00</td>
<td>$62.00</td>
<td>$93.00</td>
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<tr>
<td>Resource Room Ind</td>
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<td>$95.00</td>
<td>$57.00</td>
<td>$75.00</td>
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<tr>
<td>Resource Room Grp</td>
<td>max 5:1</td>
<td>$430.00</td>
<td>$215.00</td>
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<tr>
<td>Home Tutoring–Non Special Ed</td>
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<td>$80.00</td>
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<tr>
<td>Other Services</td>
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<tr>
<td>Parent Training by BCBA</td>
<td></td>
<td>$120.00</td>
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<tr>
<td>Parent Training by Spec. Educator, Psychologist, Social Worker</td>
<td></td>
<td>$95.00</td>
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<tr>
<td>Counseling, Licensed Social Worker</td>
<td></td>
<td>$95.00</td>
<td>$57.00</td>
<td>$75.00</td>
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<tr>
<td>Social Skills Group</td>
<td>max 6</td>
<td>$380.00</td>
<td>$215.00</td>
<td>$295.00</td>
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<tr>
<td>Service</td>
<td>Description</td>
<td>Rate for 60 min session</td>
<td>Rate for 30 min session</td>
<td>Rate for 40-45 min session or 1 classroom</td>
<td>Rate for 75 min session</td>
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<tr>
<td>Exam Proctoring</td>
<td></td>
<td>$65.00</td>
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<tr>
<td>ASL Translator</td>
<td></td>
<td>$65.00</td>
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**Related Services: Speech, PT, OT**

<table>
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<tr>
<th>Service</th>
<th>Description</th>
<th>Rate for 60 min session</th>
<th>Rate for 30 min session</th>
<th>Rate for 40-45 min session or 1 classroom</th>
<th>Rate for 75 min session</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td></td>
<td>$57.00</td>
<td>$85.00</td>
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<tr>
<td>Group</td>
<td>Max 4 students</td>
<td>$171.00</td>
<td>$255.00</td>
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<tr>
<td>Push into classroom</td>
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<td>$76.00</td>
<td>$114.00</td>
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<td>Auditory based therapy (MKSA Clinic)</td>
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<td>$120.00</td>
<td>$62.00</td>
<td>$93.00</td>
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<td>PROMPT Speech Therapy</td>
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<td>$62.00</td>
<td>$93.00</td>
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<td>PROMPT trained Speech-Language Pathologist</td>
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<td>ABA School Consult</td>
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<td>$95.00</td>
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<td>ABA School Consult BCBA or Psychologist</td>
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<td>Behavior Consultation</td>
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<tr>
<td>Behavior Consultation- Psychologist or BCBA</td>
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</tr>
<tr>
<td>Service</td>
<td>Description</td>
<td>Rate for 60 min session</td>
<td>Rate for 30 min session</td>
<td>Rate for 40-45 min session or 1 classroom</td>
<td>Rate for 75 min session</td>
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<tr>
<td>Program Supervision</td>
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<td>$95.00</td>
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<tr>
<td>Program Supervision</td>
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<td>$120.00</td>
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<tr>
<td>Psychologist or BCBA</td>
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<tr>
<td>Para professional:</td>
<td>1:1 aide;</td>
<td>$52.00</td>
<td>$26.00</td>
<td>$39.00</td>
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<td>paraprofessional</td>
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<td>Teacher Assistant</td>
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<td>$71.00</td>
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<tr>
<td>Evaluations</td>
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<tr>
<td>English Language</td>
<td>Bilingual</td>
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<tr>
<td>Speech, PT, OT, Special Ed</td>
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<td>$240.00</td>
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<td>Psychological</td>
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<td>Psychological by PhD</td>
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<td>Classroom Observation</td>
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<td>$142.00</td>
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<tr>
<td>Classroom Observation BCBA or</td>
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<td>$166.00</td>
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<td>PhD</td>
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<tr>
<td>OT/PT/Speech Screening</td>
<td>Pcr Student</td>
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<td>$150.00</td>
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<tr>
<td>(screening includes observation, summary write-up &amp; consultation with parent &amp; teacher)</td>
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### Evaluations

<table>
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<tr>
<th>Evaluation</th>
<th>English Language</th>
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<tr>
<td>Audiological Screening/Tympanometry</td>
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<td>Central Auditory Processing Evaluation</td>
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<td>Attendance at CSE meetings Per meeting $60.00</td>
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<td>Functional Behavior Analysis</td>
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<tr>
<td>Functional Behavior Analysis-BCBA</td>
<td>$355.00</td>
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</table>

**Workshops and Staff Training**  
$120.00/hour

The District will not incur any charges if the Consultant, its employees, and/or agents fail to attend a session for any reason whatsoever. If a student is absent or unable to attend a session, for any reason whatsoever, the District is not responsible for payment of any fee(s) associated with such services. The District will endeavor to notify Consultant of a student’s absence whenever practicable.

The Consultant must submit monthly invoices in form and substance satisfactory to the District for the Consultant’s Services. The District will pay the Consultant within 60 calendar days of its receipt, review and approval of the invoice.

3. **Term:** This Agreement is for Services provided from July 1, 2019 to June 30, 2020, unless this Agreement is terminated earlier as herein provided. The Consultant acknowledges that the District is under no obligation to renew this Agreement upon its expiration.

4. **Independent Contractor:** The Consultant is retained by the District only for the purposes and to the extent set forth in this Agreement. The Consultant’s relation to the District is solely that of an independent contractor during the period of the Consultant’s retention and delivery of Services hereunder.

Neither the Consultant nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker’s Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance or malpractice insurance. With regard to employees of the Consultant, the Consultant alone is responsible for their work, personal conduct, direction, compensation, and for payment of all employment, income and other taxes in relation thereto.
5. **Indemnification:** To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney's fees and disbursements) arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the performance of the Consultant's Services hereunder, or the action of, or the failure to act by the Consultant, the Consultant's representatives or employees, or anyone for whose acts the Consultant may be liable.

In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from the Consultant pursuant to the provisions of this Paragraph 5, the District will promptly notify the Consultant of the legal proceeding, claim or demand, and give the Consultant an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the Consultant in connection with the defense, which will be at the expense of the Consultant. In the event that the Consultant fails to defend the same within 30 calendar days of receipt of the notice, the District will be entitled to assume the defense thereof, and the Consultant will be liable to repay the District for all its expenses reasonably incurred in connection with the defense (including reasonable attorney's fees, disbursements, expert witness fees and settlement payments). The failure of the District to notify the Consultant of a legal proceeding, claim or demand will not relieve the Consultant of any obligation that the Consultant has pursuant to this Paragraph 5 unless and only to the extent that the failure to notify the Consultant materially prejudices the Consultant.

The Consultant agrees not to enter into any waiver, release or settlement of any legal proceeding, claim or demand for which indemnification may be sought hereunder without the prior written consent of the District (which consent will not be unreasonably withheld).

All of the provisions of this Paragraph 5 will survive the expiration or sooner termination of this Agreement.

6. **Expenses:** The Consultant will pay all expenses incurred in connection with the performance of the Consultant's duties hereunder including, but not limited to, automobile and/or travel expenses.

7. **Required Records:** The Consultant will provide services and maintain records, logs and reports in accordance with all applicable laws, regulations and requirements of the New York State Education Department, the New York State Department of Labor and District policies and procedures in force during the term of this Agreement. All student records and logs will be the property of the District. The Consultant must provide the District with a copy of any reports, tests, evaluations or observations that are prepared in connection with the Services provided by the Consultant pursuant to this Agreement.

8. **Review of Records:** The District will have the right to examine any or all records or accounts maintained by the Consultant in connection with this Agreement.

9. **District's Policies/Authority:** The Consultant certifies that it has reviewed and is
familiar with the policies, rules and regulations of the District including, but not limited to, the District’s anti-harassment and anti-discrimination policies and regulations and the District’s Code of Conduct (collectively, “the Policies”). The Consultant will ensure that its employees, representatives, agents and subcontractors and any other person providing services or present on District property pursuant to this Agreement (collectively, “Consultant’s Service Providers”) review and become familiar with the Policies. Copies of the Policies are available at http://www.hauppauge.k12.ny.us/domain/602. The Consultant agrees that it will comply with the Policies and will cause Consultant’s Service Providers to do the same.

THE CONSULTANT HEREBY CONFIRMS THAT IT HAS IMPLEMENTED A WRITTEN ANTI-SEXUAL HARASSMENT POLICY THAT MEETS OR EXCEEDS THE REQUIREMENTS OF NEW YORK LABOR LAW SECTION 201-G AND THAT ANNUAL TRAINING REGARDING THIS POLICY IS AND WILL BE PROVIDED TO ALL OF ITS EMPLOYEES CONSISTENT WITH LAW.

Any allegation that the Consultant or one of Consultant’s Service Providers has been subjected to harassment or discrimination while providing services or while present on District property pursuant to this Agreement must be reported immediately to the Assistant Superintendent for Personnel & Administration (or to the Superintendent if the Assistant Superintendent for Personnel & Administration is the subject of the allegation or concern). The Consultant confirms that it has notified the Consultant’s Service Providers of this requirement.

The Consultant will carry out the orders, directions and policies conveyed by the District from time to time either orally or in writing, provided, however, that the Consultant will determine the manner of carrying out the Consultant’s professional duties hereunder consistent with the Consultant’s status as an independent contractor.

10. Insurance: The Consultant will obtain and keep in full force and effect during the term of this Agreement, at the Consultant’s sole cost and expense, the following insurance:

a. Commercial General Liability Insurance

$1,000,000 per occurrence/$2,000,000 aggregate (must include coverage for sexual misconduct).

b. Workers' Compensation and N.Y.S. Disability

Statutory Workers' Compensation, Employers' Liability and N.Y.S. Disability Benefits Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable.

A self-employed person and certain partners and corporate officers are excluded from the definition of “employee” pursuant to Workers’ Compensation Law Section 2(4). As such, individuals in such capacity are excluded from Workers’ Compensation Law coverage requirements. A person seeking an exemption must file a CE-200 form with the State.
c. **Professional Errors and Omissions Insurance**

$2,000,000 per occurrence/ $2,000,000 aggregate for the professional acts of the Consultant performed under this Agreement for the District. If written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement. Coverage must remain in effect for two calendar years following the completion of work.

d. **Excess Insurance**

$3,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Consultant hereby agrees to effectuate the naming of the District as an additional insured on the Consultant’s insurance policies, with the exception of workers’ compensation, N.Y. State disability and professional liability. Each policy naming the District as an additional insured must:

- be an insurance policy from an A.M. Best rated “secure” or better insurer, licensed in New York State;

- state that the Consultant’s coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers.

The District must be listed as an additional insured by using endorsement CG 2026 or its equivalent. The decision to accept an alternative endorsement rests solely with the District. A completed copy of the endorsement must be attached to the certificate of insurance and the certificate must state that the endorsement is being used. The certificate of insurance must describe the specific services provided by the Consultant (e.g., physical therapy, psychological services) that are covered by the commercial general liability policy and the umbrella policy. At the District's request, the Consultant will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Consultant will provide a copy of the policy endorsements and forms.

The Consultant hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Consultant, to the extent not covered by the applicable policy.

If a policy is written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement.
The Consultant acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The Consultant must provide the District with proof satisfactory to the District that the above requirements have been met, prior to the commencement of work or use of District facilities. The failure of the District to object to the contents of the certificate or the absence of same will not be deemed a waiver of any and all rights held by the District. Upon request, the Consultant will provide the District with a copy of the Consultant’s applicable insurance policies including any endorsements, modifications, or exclusions thereto.

The District is a member/owner of the New York Schools Insurance Reciprocal (“NYSIR”). The Consultant acknowledges that the procurement of that insurance as required herein is intended to benefit not only the District, but also NYSIR as the District’s insurer.

The District, in its sole discretion, may waive one or more of the requirements set forth in this paragraph. A waiver must be in writing and signed by an authorized representative of the District.

11. Safeguarding Information: Neither the Consultant nor the District will use or disclose any information concerning the Services pursuant to this Agreement for any purpose which is prohibited by Federal and State statutes and/or regulations.

12. Termination:

A. This Agreement may be terminated by the District “for cause” upon the occurrence of any of the following events:

   (1) Immediately upon the District delivering written notice to the Consultant of a breach by the Consultant of any of the policies, rules and regulations of the District relating to the health or safety of students or District employees;

   (2) Immediately upon the Consultant’s breach of the Consultant’s obligations to provide the insurance coverage set forth in Paragraph 10;

   (3) Immediately upon the Consultant’s breach of any of the Consultant’s obligations pursuant to, or violation of, any applicable State or federal law or regulation; or

   (4) Fifteen calendar days after the Consultant has received written notice from the District that the Consultant has breached any of the Consultant’s other obligations hereunder unless, within the 15 calendar day period, the Consultant cures the breach to the District’s satisfaction.

   (5) Upon termination of this Agreement “for cause,” the Consultant is not entitled to any further payments hereunder.

B. This Agreement is automatically terminated upon the Consultant’s filing of a voluntary petition in bankruptcy or making an assignment for the benefit of creditors, or upon other action taken or suffered, voluntarily or involuntarily, pursuant to any federal or state law for the benefit of insolvents, and upon the filing of an involuntary petition in bankruptcy against the
Consultant which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph 12(B), the Consultant is not entitled to any further payments hereunder.

C. This Agreement may be terminated, at any time, by the District for convenience upon 30 calendar days’ written notice to the Consultant. Upon termination of this Agreement for convenience by the District, the Consultant is entitled to receive all sums due, accrued and unpaid as of the date of termination.

D. In the event of termination for any reason, all reports and Services due to the District must be completed by the Consultant and delivered to the District within 30 calendar days of the termination date.

13. **Signing of Acknowledgement:** The Consultant agrees to complete and sign an Acknowledgement Form with regard to the New York State Education Department Waiver for the New York State Public Retirement System with respect to each owner of the Consultant and each principal employee of the Consultant. A schedule of such persons is attached as Exhibit A.

14. **Notices:** Any notices required or permitted to be given pursuant to the terms of this Agreement must be in writing and either personally delivered or sent by nationally recognized overnight carrier to the parties at the following addresses:

**To the Consultant:**

MKSA, LLC  
125 East Bethpage Road, Suite 5  
Plainview, New York 11803

**To the District:**

Hauppauge Union Free School District  
495 Hoffman Lane  
Hauppauge, NY 11788-2836

Attention: Assistant Superintendent for Business and Operations

**With a copy to:**

Lamb & Barnosky, LLP  
534 Broadhollow Road, Suite 210  
P.O. Box 9034  
Melville, New York 11747  
Attention: Eugene R. Barnosky, Esq.

If the notice is sent by personal mail, it will be deemed delivered upon receipt and if sent by registered or certified mail, it will be deemed delivered 3 days after so mailing.

15. **Entire Agreement:** This Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, by and between the parties.

16. **Modification:** This Agreement may not be changed orally, but only by an agreement in writing signed by the party or parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or
provision of this Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.

17. **Governing Law, Choice of Forum and Waiver of Jury Trial:** This Agreement is subject to, governed by, enforced according to and construed according to the laws of the State of New York, without regard to the conflicts of laws provisions thereof. Any dispute arising under this Agreement will be litigated in a New York State Court in Suffolk County, New York. The parties each waive trial by jury in any action concerning this Agreement.

18. **No Assignment:** In accordance with the provisions of General Municipal Law § 109, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of the Consultant’s rights, title, or interest in this Agreement, or the Consultant’s power to execute this Agreement to any other person or corporation without the previous consent in writing from the District.

19. **Third-Party Beneficiaries:** There are no third-party beneficiaries of or in this Agreement, other than NYSIR.

20. **Negotiated Agreement:** This is a negotiated Agreement. It will not be construed against any party by reason of this Agreement being prepared by that party’s attorney. Each party warrants that it/he/she has full power to execute, deliver and perform this Agreement and has taken all actions required by law, organizational documents or otherwise to authorize the execution and delivery of this Agreement.

21. **Iran Divestment Act of 2012:** By signing this Agreement, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its/its/his/her own organization, under penalty of perjury, that to the best of its/its/his/her knowledge and belief that each person is not on the list created pursuant New York State Finance Law § 165-a(3)(b).

22. **Plan for Security and Protection of Personally Identifiable Information:**

   A. “District Data” means all information obtained by the Consultant from the District or by the Consultant in connection with the Services provided by the Consultant pursuant to this Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District, with the exception of PII from student and personnel data.

   B. “Personally Identifiable Information” or “PII” includes, but is not limited to: (i) a person’s name or address or the names or addresses of a student’s parents or other family members; (ii) any personal identifier (e.g., SSN, student number or biometric record); (iii) indirect identifiers (e.g., date of birth, place of birth, or mother’s maiden name); (iv) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or Consultant reasonably believes knows the identity of the person to whom a record relates.
C. The Consultant represents and warrants that it will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of District Data.

D. The Consultant represents and warrants that District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to this Agreement and for no other purpose.

E. The Consultant represents and warrants that it will only collect data from the District or District employees or other End Users (the term “End Users” means the individuals authorized by the District to access and use services provided by the Consultant pursuant to this Agreement) that is necessary to fulfill the Consultant’s duties pursuant to this Agreement.

F. The Parties agree that all rights including all intellectual property rights in and to District Data will remain the exclusive property of the District and that the Consultant has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

G. The Consultant agrees not to sell District Data and agrees not to use any District Data to advertise or market to District employees or other End Users or use or allow any other person or entity to use District Data for any commercial or marketing purpose, other than to perform the Consultant’s obligations pursuant to this Agreement. “Commercial or marketing purpose” means the sale of District Data or its use or disclosure, whether directly or indirectly, to derive a profit for advertising purposes or to develop, improve or market products or services.

H. The Consultant agrees that, upon receipt of District Data, it will: (i) limit the Consultant’s internal access to District Data to employees with legitimate educational interests (i.e., access will be limited to those employees who must access District Data to implement the terms of this Agreement); (ii) use District Data only for the purposes explicitly authorized by this Agreement; (iii) not disclose any PII from District Data to any other party (a party other than an employee with a legitimate educational interest) without the District’s prior written consent (if necessary, the District will obtain the required consent(s) from third parties), unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order); (iv) maintain reasonable safeguards to maintain confidentiality of PII in District Data and adopt technologies, safeguards and practices that align with the required version of the National Institute for Standards and Technology Framework for Improving Critical Infrastructure and any other legally required cybersecurity frameworks or standards; (v) use legally mandated encryption technology to protect District Data from unauthorized disclosure; and (vi) store all District Data within the United States of America.

I. If the Consultant has access to District Data that is subject to the Family Educational Rights and Privacy Act (“FERPA”), the Consultant acknowledges that for purposes of this Agreement it will be designated as a “school official” with a “legitimate educational interest” pursuant to FERPA and its implementing regulations, and the Consultant agrees to abide by the limitations and requirements imposed on school officials.
J. The Consultant represents and warrants that it will comply with the District’s Parents’ Bill of Rights, as supplemented, to include information about this Agreement, a copy of which is annexed hereto as Exhibit B and is signed by the Parties.

K. The Consultant represents and warrants that it has provided or, within 30 calendar days of the date of this Agreement and prior to allowing any of its employees access to District Data, will provide training, about the State and federal laws and regulations governing confidentiality of District Data to any employee who has access to District Data.

L. Except as prohibited by law, the Consultant will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by Consultant seeking District Data; (ii) consult with the District regarding its response; (iii) cooperate with the District’s reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and (iv) upon the District’s request, provide the District with a copy of Consultant’s response.

M. Upon the District’s request, the Consultant agrees that it will promptly make any District Data held by the Consultant available to the District.

N. A breach is any unauthorized access, use or disclosure of District Data. The Consultant agrees to notify the District of any breach. This notification will be made in the most expedient way possible and without delay. The Consultant must also notify the District in writing of the breach. This written notification must be sent by the Consultant within one calendar day of the breach and must be sent to the District by email to the Deputy Superintendent and either personally delivered or sent by nationally recognized overnight carrier to the District. In the event of a breach attributed to the Consultant or the Consultant’s assignees or subcontractors, the Consultant must reimburse the District for all the District’s costs associated with the District’s obligation to notify the State’s chief privacy officer, parents, students, teachers and/or principals of the breach.

O. The parties agree to execute an amendment to this Agreement if required for compliance with any new laws or regulations relating to the confidentiality, security and privacy of data.

P. To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from the District’s notification obligations set forth above in Subparagraph N.

Q. All the provisions of this Paragraph 22 will survive the expiration or sooner termination of this Agreement.

23. Fingerprinting: The Consultant will be responsible for compliance with the requirements of all applicable laws, rules and regulations, including, but not limited to Project Save and the Safe Schools Act with respect to any person providing Services involving direct contact with District students. All persons providing Services involving direct contact with
District students must receive fingerprinting clearance prior to providing the Services. Written proof of clearance of each person (in form and substance satisfactory to the District) will be provided to the District prior to the provision of Services. The Consultant will inform the District, in writing, within one business day of the Consultant’s receipt of a notice of subsequent arrest (or any other notice related to fingerprinting) for any person providing Services. If any of the Consultant’s employees who are assigned to provide Services do not have the appropriate fingerprinting clearance, the Consultant must give the District the information necessary to process and obtain fingerprint clearance and reimburse the District for the cost to the District of obtaining the clearance. The District will deduct the cost of the fingerprinting clearance from the next payment due to the Consultant. If any person providing Services leaves the employment of the Consultant for any reason, the Consultant must notify the District, in writing, within one calendar week of the end of the person’s employment. If the District has not received sufficient proof of fingerprinting clearance for any person providing Services, the District will deduct the cost of the Services provided by the person from the next payment due to the Consultant. Consultant agrees that Consultant will perform or cause a third party to perform a background check of all individuals providing Services. Consultant further agrees to confirm that all individuals providing Services for which a license is required by the State and for which fingerprinting is required to obtain that license, have in fact been fingerprinted in connection with the issuance of that license.

24. **No End User Agreements:** In the event that the Consultant enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the Agreement will apply.

25. **Execution:** The Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement. The Agreement may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the latter date that appears below.

**HAUPPAUGE UNION FREE SCHOOL DISTRICT**

By: ________________________________
David M. Barshay
President, Board of Education

Date: ________________________________

**MKSA, LLC**

By: ________________________________
Ann Mafie Vigliotti
Title: Executive Director

Date: 6/7/19
EXHIBIT A
ACKNOWLEDGMENT WITH REGARD TO THE NEW YORK STATE EDUCATION DEPARTMENT WAIVER

Complete one of the following paragraphs:

1. I, Anchorage, verify that I am not a retired member of any New York State Public Retirement System, and therefore do not require a waiver from the New York State Education Department to perform the duties for which I have contracted.

   Signed
   
   Date

2. I, ____________________________, verify that I am a retired member of a New York State Public Retirement System but all collective earnings from any public employment in New York State will not and does not exceed the current earnings limitation. Therefore, I do not require a waiver from the New York State Education Department to perform the duties for which I have contracted.

   Signed
   
   Date

3. I, ____________________________, verify that I am a retired member of a New York State Public Retirement System and I expect that my collective earnings from any public employment in New York State will exceed the current earnings limitation. Therefore, I require a waiver from the New York State Education Department and I request that ____________________________ School District file a request for the waiver on my behalf.

   Signed
   
   Date

4. I, ____________________________, verify that I am a retired member of any New York State Public Retirement System, but I do not require a waiver from the New York State Education Department to perform the duties for which I have contracted because I am at least 65 years old.

   Signed
   
   Date
EXHIBIT B

AGREEMENT BETWEEN MKSA, LLC ("the Consultant") and the DISTRICT

TERM: JULY 1, 2019 to JUNE 30, 2020

HAUPPAUGE UNION FREE SCHOOL DISTRICT’S PARENTS’ BILL OF RIGHTS REGARDING DATA PRIVACY AND SECURITY

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HAUPPAUGE UNION FREE SCHOOL DISTRICT

PARENTS’ BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY –

Summary of Rights and Information for Parents and Students

The legislature and governor passed a group of bills that adjusted the Regents Education Reform Agenda. These bills are known collectively as the “Common Core Implementation Reform Act.” One of the key components of this act (Chapter 56, Part AA, Subpart L, of the laws of 2014) directs the Commissioner of Education to appoint a Chief Privacy Officer (CPO). A major function of this new position is to work with school districts and parents to develop elements for a parents’ bill of rights to help ensure that student data is private and secure. The State Education Department (SED) and the CPO must also recommend regulations to establish standards for data security and privacy policies that will be implemented statewide.

SED has issued a preliminary Parents’ Bill of Rights for Data Privacy and Security. The Hauppauge Union Free School District is issuing this summary of parents’ rights under the new law. While some additional elements will be developed in conjunction with the CPO, districts, parents and the Board of Regents, this summary sets forth the key rights and information that parents should be aware of in regards to ensuring the privacy and security of their student’s educational data.

The Hauppauge Union Free School District is committed to ensuring student privacy and recognizes that parents, legal guardians, and persons with a parental relationship to a student are entitled to certain rights with regard to their child’s personally identifiable information, as defined by Education Law §2-d. To this end, the District is providing the following Parent’s Bill of Rights for Data Privacy and Security:

1. A student’s personally identifiable information cannot be sold or released for any commercial purposes;

2. Parents have the right to inspect and review the complete contents of their child’s education record;

3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices,
including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred;

4. A complete list of all student data elements collected by the State is available for public review at http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863, 89 Washington Avenue, New York 12234; and

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to: Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.

If the Hauppauge Union Free School District enters into a third party contract in which the service provider receives student data or teacher or principal data in order to provide a needed service for the District, supplemental information shall be developed and provided to parents that states:

6. The exclusive purposes for which the student data or teacher or principal data will be used;

7. How the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;

8. When the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

9. If and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

10. Where the student data or teacher or principal data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

The CPO as appointed by the Commissioner must secure input from parents and other education and expert stakeholders to develop additional elements for the Parents’ Bill of Rights for Data Privacy and Security. The Commissioner of Education will also be promulgating regulations with a comment period for parents and other members of the public to submit comments and suggestions to the CPO.

In the meantime, you can access additional information and a question and answer document issued by SED as a preliminary Parents’ Bill of Rights for Data Privacy and Security.
If you have any further questions or concerns at this time, please contact Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Dr. Donald B. Murphy, Assistant Superintendent for Curriculum, Instruction, and Technology, Hauppauge UFSD, at (631) 761-8202.

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This Bill of Rights will be included with every contract entered into by the District with an outside contractor if the contractor will receive student data or teacher or principal data. This Bill of Rights will be supplemented to include information about each contract that the District enters into with an outside contractor receiving confidential student data or teacher or principal data, including the exclusive purpose(s) for which the data will be used, how the contractor will ensure confidentiality and data protection and security requirements, the date of expiration of the contract and what happens to the data upon the expiration of the contract, if and how the accuracy of the data collected can be challenged, where the data will be stored and the security protections that will be taken.

“District Data” means all information obtained by the Consultant from the District or by the Consultant in connection with the services provided by Consultant pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District, with the exception of Personally Identifiable Information from student and personnel data.

(1) **Use of District Data by Consultant.** The District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to the Agreement and for no other purpose.

(2) **Storage and Security Protections.** The Consultant will store and process District Data in compliance with Education Law § 2-d(5) and applicable regulations of the Commissioner of Education, if any, as the same may be amended from time to time, and in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure District Data from unauthorized access, disclosure, alteration and use. The Consultant will use legally-required, industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services pursuant to the Agreement. Consultant will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

The following paragraphs describe **(in such a manner as to protect data security)** the specific storage methods and security protections used by the Consultant to protect District Data:

(a) **Storage of Electronic Data:** See next page attached.
(b) Storage of Non-Electronic Data:

(c) Personnel/Workforce Security Measures:

(d) Physical Security Measures:

(e) Account Management and Access Control:

(f) All electronic District Data will be protected by the Consultant through the use of encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).

(3) **Sharing Information with Other Persons and Entities.** The Consultant will only share District Data with entities or persons authorized by the Agreement. To the extent that District Data will be shared by the Consultant with other authorized entities or persons not employed by Consultant, the Consultant will ensure that those persons or entities will be required to agree in writing that it/they will comply with all terms of the Agreement’s Plan for Security and Protection of Personally Identifiable Information, and any other Agreement provision relating to confidentiality of records and data security and privacy, including, but not limited to this Exhibit B.

(4) **Destruction/Return of Data.** Upon the termination of the Agreement for any reason, the Consultant will, as directed by the District in writing, securely destroy (“securely destroy” means taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means) or return all District Data received by the Consultant as soon as reasonably possible. The District’s decision will be made in connection with all applicable laws, including the New York Arts and Cultural Affairs Law and the Records Retention and Disposition Schedule ED-1. In connection with the secure destruction of any District Data, the Consultant will provide a certificate of destruction (form and substance satisfactory to the District) to the District.

(5) **Challenge to Accuracy of Data.** A parent or guardian, student, teacher or principal can challenge the accuracy of the Data received by the Consultant by following applicable law (e.g., Family Educational Rights and Privacy Act), employment agreements, and policies, rules and regulations. If the Consultant
MKSA, LLC

(1) The student data or teacher or principal data (collectively, “the Data”) received by the Service Provider will be used for the following purpose(s): Conducting evaluations for the purpose of assisting in the determination of services by the CSE. Consents and prescriptions to meet Medicaid billing requirements and IEPs and any data necessary for the delivery of services.

(2) The Service Provider will ensure the confidentiality of the Data that is shared with subcontractors and or other persons or entities by: Data is mailed directly to service providers. If email is used for transfer of data it is sent and received in an encrypted format. The release of any records to parties other than the district must have a signed release form (signed by the parent).

(3) Upon the termination of this Agreement, all the Data received by the service provider will be destroyed by (insert date): Documents are shredded at the time the student turns 21.

(4) A parent, student, teacher or principal can challenge the accuracy of the Data received by the Service Provider by: Submitting “request to amend a child’s record” form and forwarding to the Executive Director.

(5) The following is how the Data will be stored and what security protections will be taken by the Service Provider: Data is kept on site in a locked file room for two years. After the two years the data is transported by courier to a secured storage facility. Electronic Data is stored on the company server and backed up daily onto the Cloud. Staff computers and telephones are password protected using unique codes that are regularly updated. Upon termination of an employee, all passwords and access cards are deactivated. Visitors to our office sign in at the front desk, buzzed in to the administration office and escorted to the area they are visiting.

MKSA, LLC
125 East Bethpage Road, Suite 5
Plainview, NY 11803
516-731-5588

By: ________________________________
Name: Ann Marie Vigliotti
Title: Executive Director

6/7/19
receives a challenge to the accuracy of Data from a parent or guardian, student, teacher or principal, the

Consultant will notify the District in writing. The Consultant will not amend any Data without a written request from the District.

HAUPPAUGE UNION FREE
SCHOOL DISTRICT

By: ____________________________
    David M. Barshay
    President, Board of Education

Date: ____________________________

MKSA, LLC

By: ____________________________
    Ann Marie Vigliotti
    Title: ____________________________

Date: 6/7/19
INSTRUCTIONS FOR PARENTS BILL OF RIGHTS

Exhibit B contains information required by New York Education Law § 2-d and includes information that makes up part of the mandated Plan for Protection of Personally Identifiable Information. It should contain detailed information about data storage and security measures. The Consultant must describe the ways it will store District Data and the specific security protections that will be used by the Consultant to protect District Data. Please note that these descriptions are part of a publically accessible document and must be written in a manner that will protect the Consultant’s data security.

Below, we list examples for each storage/security category set forth in Exhibit B. These are only examples and the Consultant must describe the specific storage methods and security protections it uses (again, the description must be written in a manner that will protect the Consultant’s data security). The amount of information included should not be limited by the space provided.

Examples:

(a) Storage of Electronic Data:
   • In the Cloud (specify types, private or public, etc.)
   • On Consultant’s server

(b) Storage of Non-Electronic Data:
   • Files stored in locked filing cabinets

(c) Personnel/Workforce Security Measures:
   • Describe internal policies regulating access to information and sharing information amongst coworkers
   • Describe policies relating to the requirement to return all data and property to the Consultant upon an employee’s separation from employment

(d) Account Management and Access Control:
   • Use of unique user-IDS
   • Use of passwords that are regularly and frequently updated
   • Use of automatic techniques to terminate a session upon specific conditions (e.g., idle time)
   • Policy to disable employee accounts upon termination from employment

(e) Physical Security Measures:
   • Describe security barriers and access controls (e.g., locking of doors, desks and filing cabinets)
   • Describe visitor policies (e.g., visitors are escorted at all times when visiting information processing and storage facilities
SPECIAL RIDER

FOR COMPLIANCE WITH JUNE 2, 2010 STATE EDUCATION DEPARTMENT GUIDANCE RELATED TO CONTRACTS FOR INSTRUCTION

The parties to the annexed Agreement hereby confirm that MKSA, LLC ("the Consultant") will meet the criteria and guidelines set forth in the attached June 2, 2010 Guidance Memorandum issued by the New York State Education Department concerning contracts for instruction ("the Guidance"). The Consultant further represents that it is capable of meeting the criteria and guidelines set forth in the Guidance. The Consultant also agrees to provide the Hauppauge Union Free School District ("the District") with access and student records necessary for the District to fulfill its supervisory obligations as set forth in the Guidance.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ____________________________ Date: ____________________________
David M. Barshay
President, Board of Education

MKSA, LLC

By: ____________________________ Date: __/7/18
Ann Marie Vigliotti
Title:
HAUPPAUGE PUBLIC SCHOOLS
Office of the Director of Pupil Personnel Services

TO: Jacqueline Pirro
FROM: Lois Jankeloff
DATE: June 21, 2019
SUBJECT: Contracts 2019-20

Please have the Board of Education sign and approve the following contracts:

Provider: New York Therapy Placement Services
Term: 7/1/19 to 6/30/20
Cost: Cost varies according to service
Service: Various Services
CONTRACT FOR CONSULTANT SERVICES

AGREEMENT dated as of the __ day of ________, 2019 between the HAUPPAUGE UNION FREE SCHOOL DISTRICT ("the District"), having its administrative offices at 495 Hoffman Lane, Hauppauge, New York 11788-2836, and NEW YORK THERAPY PLACEMENT SERVICES, INC. ("the Consultant"), having an office at 299 Hallock Avenue, Port Jefferson Station, New York 11776.

In consideration of the mutual covenants and conditions contained in this Agreement, the District and the Consultant hereby agree as follows:

1. **Retention:** The District retains the Consultant and the Consultant agrees to provide the District with the following services ("the Services") and the Consultant makes the representations and warranties hereinafter set forth:

   a. The Consultant agrees to provide therapy and special education services, related services, and evaluations of District students upon request. The Services must be appropriate to the mental ability and physical condition of the children, and in accordance with applicable laws, rules and regulations and currently approved methods and practices of the profession.

   b. The Consultant agrees, at no additional cost, to attend all Committee on Special Education meeting and provide all written reports required by this Agreement. The Consultant agrees to submit to the District: (i) written progress reports regarding student achievement of objectives on a quarterly basis pursuant to the District’s report card schedule and upon the District’s request; (ii) a written annual progress report for each student to be reviewed at each student’s Committee on Special Education meeting; and (iii) a written report to the District within 10 business days of any evaluation.

   c. All services must be provided in strict compliance with the student’s Individualized Education Plan.

   d. The Consultant represents and warrants that it is duly licensed and authorized to perform the Services and that it will provide the District with licensed and qualified individuals to perform the Services. The Consultant further represents and warrants that the Services will be performed by individuals that are licensed pursuant to State, federal and local laws, regulations and rules. Upon the District’s request, the Consultant agrees to submit to the District proof of certification and/or professional licensing of all individuals providing Services.

   e. The individuals providing Services are subject to the District’s approval, and the District reserves the right to reject the placement of any individual.

   f. The Consultant further agrees to complete and submit, upon the request of the District, all forms to document the Services provided to Medicaid-eligible school-aged students, for Medicaid reimbursement purposes. Consultant represents and warrants it has never been excluded from Medicare, Medicaid, or any health care benefit program funded by the Federal government. The Consultant represents and warrants, as a material term of this Agreement, that neither it nor any of its employees is/are:
i. Currently excluded from or otherwise ineligible to participate in any federal or State health care program, including those defined in 42 U.S.C. § 1320 a-7b(f);

ii. The subject of any pending exclusion proceeding; or

iii. The subject of an adjudication or determination that it/they have committed any action that could subject the Consultant to exclusion from governmental programs (collectively, "exclusion activity").

Additionally, the Consultant agrees that, as a continuing obligation of this Agreement, the Consultant will:

i. Maintain documentation evidencing monthly exclusion checks, and will produce the documentation to the District upon its request; and

ii. Report in writing to the District any exclusion activity involving the Consultant as soon as practicable after the Consultant learns of the exclusion activity.

g. The Consultant will obtain whatever releases or other legal documents that are necessary for the Consultant to render full and complete reports concerning the progress of the pupil(s) covered by this Agreement.

h. The Consultant hereby agrees to furnish to the State all reports, audits, and other documentation or information required to make determinations as to eligibility pursuant to State or federal laws, regulations or rules. Those materials must be furnished at all times as required by the State. Failure to submit required materials within ten business days of demand or as required by law will constitute a material breach of this Agreement. The Consultant agrees to provide the State access to all relevant records which the State requires to determine the Consultant’s or the District’s compliance with applicable State or federal laws, regulations or rules. The Consultant agrees to retain all materials and records relevant to the execution or performance of the Agreement in accordance with the requirements of applicable law, but in no event less than six years from the date of this Agreement.

i. The Consultant must furnish each individual providing Services with a photo identification badge to be worn at all times while the individual is providing Services.

j. The Consultant hereby agrees to furnish written progress reports to the District at any time that the reports are made to the parents of the pupil(s) covered by this Agreement and will render additional reports upon the District’s request. All reports must be furnished upon termination of the Agreement. The Consultant must provide any additional information concerning a pupil’s progress upon the District’s request.
2. **Compensation:** The District will compensate the Consultant at the following rates:

<table>
<thead>
<tr>
<th>Service</th>
<th>Per 30 minute individual session</th>
<th>Per 30 minute group session</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occupational Therapy</td>
<td>$40.00</td>
<td>$55.00</td>
</tr>
<tr>
<td>Physical Therapy</td>
<td>$40.00</td>
<td>$55.00</td>
</tr>
<tr>
<td>Speech Pathology</td>
<td>$40.00</td>
<td>$55.00</td>
</tr>
<tr>
<td>Special Education Itinerant Teacher</td>
<td>$40.00</td>
<td>$55.00</td>
</tr>
</tbody>
</table>

**ABA Services**

<table>
<thead>
<tr>
<th>Service</th>
<th>Per 60 minute session</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABA Services – Aide</td>
<td>$40.00</td>
</tr>
<tr>
<td>Special Education Itinerant Teacher</td>
<td>$85.00</td>
</tr>
<tr>
<td>ABA Supervisors</td>
<td>$120.00</td>
</tr>
<tr>
<td>Small Group TA</td>
<td>$32.00</td>
</tr>
</tbody>
</table>

ABA services may be home or school based. If students require home based service or services at a private or parochial school, the session rates listed above will be increased by an additional eight ($8.00) dollars per session.

<table>
<thead>
<tr>
<th>Service</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluations/Triennials</td>
<td>$150.00 per evaluation</td>
</tr>
<tr>
<td>Training/Professional Development</td>
<td>$450.00 for two (2) hours</td>
</tr>
</tbody>
</table>

**Assistive Technology Services**

<table>
<thead>
<tr>
<th>Service</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistive Technology Evaluations</td>
<td>$950.00 per evaluation</td>
</tr>
<tr>
<td>Assistive Technology Consult/Training</td>
<td>$150.00/hour</td>
</tr>
</tbody>
</table>

The District will not incur any charges if the Consultant, its employees, and/or agents fail to attend a session for any reason whatsoever. If a student is absent or unable to attend a session, for any reason whatsoever, the District is not responsible for payment of any fee(s) associated with such services. The District will endeavor to notify Consultant of a student’s absence whenever practicable.
The Consultant must submit monthly invoices in form and substance satisfactory to the District for the Consultant’s Services. The District will pay the Consultant within 60 calendar days of its receipt, review and approval of the invoice.

3. **Term:** This Agreement is for Services provided from July 1, 2019 to June 30, 2020, unless this Agreement is terminated earlier as herein provided. The Consultant acknowledges that the District is under no obligation to renew this Agreement upon its expiration.

4. **Independent Contractor:** The Consultant is retained by the District only for the purposes and to the extent set forth in this Agreement. The Consultant’s relation to the District is solely that of an independent contractor during the period of the Consultant’s retention and delivery of Services hereunder.

If the Consultant is a corporation, partnership or LLC, neither the Consultant nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker’s Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance or malpractice insurance. With regard to employees of the Consultant, the Consultant alone is responsible for their work, personal conduct, direction, compensation, and for payment of all employment, income and other taxes in relation thereto.

If the Consultant is an individual, the compensation being paid pursuant to this Agreement will not be subject to withholding taxes or other employment taxes required with respect to compensation paid by the District to an employee. The District, if required by Federal or State requirements, will submit a Form 1099 and IT 2102.1, respectively, at year-end to the Federal government and State government and to each individual Consultant having a gross income exceeding $600. The Consultant will not be eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker’s Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance, or malpractice insurance. The Consultant alone is responsible for his or her work, personal conduct, direction and for payment of all employment, income and other taxes in relation thereto.

5. **Indemnification:** To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the performance of the Consultant’s Services hereunder, or the action of, or the failure to act by the Consultant, the Consultant’s representatives or employees, or anyone for whose acts the Consultant may be liable.

In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from the Consultant pursuant to the provisions of this Paragraph 5, the District will promptly notify the Consultant of the legal proceeding, claim or demand, and give the Consultant an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the Consultant in connection with the defense, which will be at the expense of the Consultant. In the event that the Consultant fails to defend the same within 30 calendar days of receipt of the notice, the District
will be entitled to assume the defense thereof, and the Consultant will be liable to repay the District for all its expenses reasonably incurred in connection with the defense (including reasonable attorney's fees, disbursements, expert witness fees and settlement payments). The failure of the District to notify the Consultant of a legal proceeding, claim or demand will not relieve the Consultant of any obligation that the Consultant has pursuant to this Paragraph 5 unless and only to the extent that the failure to notify the Consultant materially prejudices the Consultant.

The Consultant agrees not to enter into any waiver, release or settlement of any legal proceeding, claim or demand for which indemnification may be sought hereunder without the prior written consent of the District (which consent will not be unreasonably withheld).

All of the provisions of this Paragraph 5 will survive the expiration or sooner termination of this Agreement.

6. **Expenses:** The Consultant will pay all expenses incurred in connection with the performance of the Consultant’s duties hereunder including, but not limited to, automobile and/or travel expenses.

7. **Required Records:** The Consultant will provide services and maintain records, logs and reports in accordance with all applicable laws, regulations and requirements of the New York State Education Department, the New York State Department of Labor and District policies and procedures in force during the term of this Agreement. All student records and logs will be the property of the District. The Consultant must provide the District with a copy of any reports, tests, evaluations or observations that are prepared in connection with the Services provided by the Consultant pursuant to this Agreement.

8. **Review of Records:** The District will have the right to examine any or all records or accounts maintained by the Consultant in connection with this Agreement.

9. **District’s Policies/Authority:** The Consultant certifies that it has reviewed and is familiar with the policies, rules and regulations of the District including, but not limited to, the District’s anti-harassment and anti-discrimination policies and regulations and the District’s Code of Conduct (collectively, “the Policies”). The Consultant will ensure that its employees, representatives, agents and subcontractors and any other person providing services or present on District property pursuant to this Agreement (collectively, “Consultant’s Service Providers”) review and become familiar with the Policies. Copies of the Policies are available at http://www.hauppauge.k12.ny.us/domain/602. The Consultant agrees that it will comply with the Policies and will cause Consultant’s Service Providers to do the same.

**THE CONSULTANT HEREBY CONFIRMS THAT IT HAS IMPLEMENTED A WRITTEN ANTI-SEXUAL HARASSMENT POLICY THAT MEETS OR EXCEEDS THE REQUIREMENTS OF NEW YORK LABOR LAW SECTION 201-G AND THAT ANNUAL TRAINING REGARDING THIS POLICY IS AND WILL BE PROVIDED TO ALL OF ITS EMPLOYEES CONSISTENT WITH LAW.**

Any allegation that the Consultant or one of Consultant’s Service Providers has been subjected to harassment or discrimination while providing services or while present on District property pursuant to this Agreement must be reported immediately to the Assistant Superintendent for Personnel & Administration (or to the Superintendent if the Assistant Superintendent for Personnel & Administration is the subject of the allegation or concern). The Consultant confirms that it has notified the Consultant’s...
Service Providers of this requirement.

The Consultant will carry out the orders, directions and policies conveyed by the District from time to time either orally or in writing, provided, however, that the Consultant will determine the manner of carrying out the Consultant's professional duties hereunder consistent with the Consultant's status as an independent contractor.

10. **Insurance:** The Consultant will obtain and keep in full force and effect during the term of this Agreement, at the Consultant's sole cost and expense, the following insurance:

a. **Commercial General Liability Insurance**

$1,000,000 per occurrence/$2,000,000 aggregate (must include coverage for sexual misconduct).

b. **Workers' Compensation and N.Y.S. Disability**

Statutory Workers' Compensation, Employers' Liability and N.Y.S. Disability Benefits Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable.

A self-employed person and certain partners and corporate officers are excluded from the definition of "employee" pursuant to Workers' Compensation Law Section 2(4). As such, individuals in such capacity are excluded from Workers' Compensation Law coverage requirements. A person seeking an exemption must file a CE-200 form with the State. The form may be completed and submitted directly online to the Workers Compensation Board: http://www.wcb.ny.gov/content/cbiz/wc_db_exemptions/requestExemptionOverview.jsp

c. **Professional Errors and Omissions Insurance**

$2,000,000 per occurrence/ $2,000,000 aggregate for the professional acts of the Consultant performed under this Agreement for the District. If written on a "claims-made" basis, the retroactive date must pre-date the inception of this Agreement. Coverage must remain in effect for two calendar years following the completion of work.

d. **Excess Insurance**

$3,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Consultant hereby agrees to effectuate the naming of the District as an additional insured on the Consultant's insurance policies, with the exception of workers' compensation, N.Y. State disability and professional liability. Each policy naming the District as an additional insured must:
• be an insurance policy from an A.M. Best rated “secure” or better insurer, licensed in New York State; and

• state that the Consultant’s coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers.

The District must be listed as an additional insured by using endorsement CG 2026 or its equivalent. The decision to accept an alternative endorsement rests solely with the District. A completed copy of the endorsement must be attached to the certificate of insurance and the certificate must state that the endorsement is being used. The certificate of insurance must describe the specific services provided by the Consultant (e.g., physical therapy, psychological services) that are covered by the commercial general liability policy and the umbrella policy. At the District’s request, the Consultant will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Consultant will provide a copy of the policy endorsements and forms.

The Consultant hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Consultant, to the extent not covered by the applicable policy.

If a policy is written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement.

The Consultant acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The Consultant must provide the District with proof satisfactory to the District that the above requirements have been met, prior to the commencement of work or use of District facilities. The failure of the District to object to the contents of the certificate or the absence of same will not be deemed a waiver of any and all rights held by the District. Upon request, the Consultant will provide the District with a copy of the Consultant’s applicable insurance policies including any endorsements, modifications, or exclusions thereto.

The District is a member/owner of the New York Schools Insurance Reciprocal ("NYSIR"). The Consultant acknowledges that the procurement of that insurance as required herein is intended to benefit not only the District, but also NYSIR as the District’s insurer.

The District, in its sole discretion, may waive one or more of the requirements set forth in this paragraph. A waiver must be in writing and signed by an authorized representative of the District.

11. **Safeguarding Information:** Neither the Consultant nor the District will use or disclose any information concerning the Services pursuant to this Agreement for any purpose which is prohibited by Federal and State statutes and/or regulations.

12. **Termination:**

   A. This Agreement may be terminated by the District “for cause” upon the occurrence of any of the following events:
(1) Immediately upon the District delivering written notice to the Consultant of a breach by the Consultant of any of the policies, rules and regulations of the District relating to the health or safety of students or District employees;

(2) Immediately upon the Consultant’s breach of the Consultant’s obligations to provide the insurance coverage set forth in Paragraph 10;

(3) Immediately upon the Consultant’s breach of any of the Consultant’s obligations pursuant to, or violation of, any applicable State or federal law or regulation; or

(4) Fifteen calendar days after the Consultant has received written notice from the District that the Consultant has breached any of the Consultant’s other obligations hereunder unless, within the 15 calendar day period, the Consultant cures the breach to the District’s satisfaction.

(5) Upon termination of this Agreement “for cause,” the Consultant is not entitled to any further payments hereunder.

B. This Agreement is automatically terminated upon the Consultant’s filing of a voluntary petition in bankruptcy or making an assignment for the benefit of creditors, or upon other action taken or suffered, voluntarily or involuntarily, pursuant to any federal or state law for the benefit of insolvents, and upon the filing of an involuntary petition in bankruptcy against the Consultant which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph 12(B), the Consultant is not entitled to any further payments hereunder.

C. This Agreement may be terminated, at any time, by the District for convenience upon 30 calendar days’ written notice to the Consultant. Upon termination of this Agreement for convenience by the District, the Consultant is entitled to receive all sums due, accrued and unpaid as of the date of termination.

D. In the event of termination for any reason, all reports and Services due to the District must be completed by the Consultant and delivered to the District within 30 calendar days of the termination date.

13. Signing of Acknowledgement: The Consultant agrees to complete and sign an Acknowledgement Form with regard to the New York State Education Department Waiver for the New York State Public Retirement System with respect to each owner of the Consultant and each principal employee of the Consultant. A schedule of such persons is attached as Exhibit A.

14. Notices: Any notices required or permitted to be given pursuant to the terms of this Agreement must be in writing and either personally delivered or sent by nationally recognized overnight carrier to the parties at the following addresses:

To the Consultant:
New York Therapy Placement Services, Inc.
299 Hallock Avenue
Port Jefferson Station, New York 11776

To the District:
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Attention: Assistant Superintendent for
Business and Operations

With a copy to:

Lamb & Barnosky, LLP
534 Broadhollow Road, Suite 210
P.O. Box 9034
Melville, New York 11747
Attention: Eugene R. Barnosky, Esq.

If the notice is sent by personal mail, it will be deemed delivered upon receipt and if sent by registered or certified mail, it will be deemed delivered 3 days after so mailing.

15. **Entire Agreement:** This Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, by and between the parties.

16. **Modification:** This Agreement may not be changed orally, but only by an agreement in writing signed by the party or parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or provision of this Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.

17. **Governing Law, Choice of Forum and Waiver of Jury Trial:** This Agreement is subject to, governed by, enforced according to and construed according to the laws of the State of New York, without regard to the conflicts of laws provisions thereof. Any dispute arising under this Agreement will be litigated in a New York State Court in Suffolk County, New York. The parties each waive trial by jury in any action concerning this Agreement.

18. **No Assignment:** In accordance with the provisions of General Municipal Law § 109, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of the Consultant’s rights, title, or interest in this Agreement, or the Consultant’s power to execute this Agreement to any other person or corporation without the previous consent in writing from the District.

19. **Third-Party Beneficiaries:** There are no third-party beneficiaries of or in this Agreement, other than NYSIR.

20. **Negotiated Agreement:** This is a negotiated Agreement. It will not be construed against any party by reason of this Agreement being prepared by that party’s attorney. Each party warrants that it/he/she has full power to execute, deliver and perform this Agreement and has taken all actions required by law, organizational documents or otherwise to authorize the execution and delivery of this Agreement.

21. **Iran Divestment Act of 2012:** By signing this Agreement, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its/his/her own organization, under penalty of perjury, that to the best of
its/his/her knowledge and belief that each person is not on the list created pursuant New York State Finance Law § 165-a(3)(b).

22. **Plan for Security and Protection of Personally Identifiable Information:**

   A. "District Data" means all information obtained by the Consultant from the District or by the Consultant in connection with the Services provided by the Consultant pursuant to this Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, "District Data" does not include any information made publically available by the District, with the exception of PII from student and personnel data.

   B. "Personally Identifiable Information" or "PII" includes, but is not limited to: (i) a person’s name or address or the names or addresses of a student’s parents or other family members; (ii) any personal identifier (e.g., SSN, student number or biometric record); (iii) indirect identifiers (e.g., date of birth, place of birth, or mother’s maiden name); (iv) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or Consultant reasonably believes knows the identity of the person to whom a record relates.

   C. The Consultant represents and warrants that it will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of District Data.

   D. The Consultant represents and warrants that District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to this Agreement and for no other purpose.

   E. The Consultant represents and warrants that it will only collect data from the District or District employees or other End Users (the term “End Users” means the individuals authorized by the District to access and use services provided by the Consultant pursuant to this Agreement) that is necessary to fulfill the Consultant’s duties pursuant to this Agreement.

   F. The Parties agree that all rights including all intellectual property rights in and to District Data will remain the exclusive property of the District and that the Consultant has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

   G. The Consultant agrees not to sell District Data and agrees not to use any District Data to advertise or market to District employees or other End Users or use or allow any other person or entity to use District Data for any commercial or marketing purpose, other than to perform the Consultant’s obligations pursuant to this Agreement. "Commercial or marketing purpose" means the sale of District Data or its use or disclosure, whether directly or indirectly, to derive a profit for advertising purposes or to develop, improve or market products or services.

   H. The Consultant agrees that, upon receipt of District Data, it will: (i) limit the Consultant’s internal access to District Data to employees with legitimate educational interests (i.e., access will be limited to those employees who must access District Data to implement the terms of this
Agreement; (ii) use District Data only for the purposes explicitly authorized by this Agreement; (iii) not disclose any PII from District Data to any other party (a party other than an employee with a legitimate educational interest) without the District’s prior written consent (if necessary, the District will obtain the required consent(s) from third parties), unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order); (iv) maintain reasonable safeguards to maintain confidentiality of PII in District Data and adopt technologies, safeguards and practices that align with the required version of the National Institute for Standards and Technology Framework for Improving Critical Infrastructure and any other legally required cybersecurity frameworks or standards; (v) use legally mandated encryption technology to protect District Data from unauthorized disclosure; and (vi) store all District Data within the United States of America.

I. If the Consultant has access to District Data that is subject to the Family Educational Rights and Privacy Act ("FERPA"), the Consultant acknowledges that for purposes of this Agreement it will be designated as a "school official" with a "legitimate educational interest" pursuant to FERPA and its implementing regulations, and the Consultant agrees to abide by the limitations and requirements imposed on school officials.

J. The Consultant represents and warrants that it will comply with the District’s Parents’ Bill of Rights, as supplemented, to include information about this Agreement, a copy of which is annexed hereto as Exhibit B and is signed by the Parties.

K. The Consultant represents and warrants that it has provided or, within 30 calendar days of the date of this Agreement and prior to allowing any of its employees access to District Data, will provide training, about the State and federal laws and regulations governing confidentiality of District Data to any employee who has access to District Data.

L. Except as prohibited by law, the Consultant will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by Consultant seeking District Data; (ii) consult with the District regarding its response; (iii) cooperate with the District’s reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and (iv) upon the District’s request, provide the District with a copy of Consultant’s response.

M. Upon the District’s request, the Consultant agrees that it will promptly make any District Data held by the Consultant available to the District.

N. A breach is any unauthorized access, use or disclosure of District Data. The Consultant agrees to notify the District of any breach. This notification will be made in the most expedient way possible and without delay. The Consultant must also notify the District in writing of the breach. This written notification must be sent by the Consultant within one calendar day of the breach and must be sent to the District by email to the Deputy Superintendent and either personally delivered or sent by nationally recognized overnight carrier to the District. In the event of a breach attributed to the Consultant or the Consultant’s assignees or subcontractors, the Consultant must reimburse the District for all the District’s costs associated with the District’s obligation to notify the State’s chief privacy officer, parents, students, teachers and/or principals of the breach.
O. The parties agree to execute an amendment to this Agreement if required for compliance with any new laws or regulations relating to the confidentiality, security and privacy of data.

P. To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney's fees and disbursements) arising from the District's notification obligations set forth above in Subparagraph N.

Q. All the provisions of this Paragraph 22 will survive the expiration or sooner termination of this Agreement.

23. **Fingerprinting:** The Consultant will be responsible for compliance with the requirements of all applicable laws, rules and regulations, including, but not limited to Project Save and the Safe Schools Act with respect to any person providing Services involving direct contact with District students. All persons providing Services involving direct contact with District students must receive fingerprinting clearance prior to providing the Services. Written proof of clearance of each person (in form and substance satisfactory to the District) will be provided to the District prior to the provision of Services. The Consultant will inform the District, in writing, within one business day of the Consultant's receipt of a notice of subsequent arrest (or any other notice related to fingerprinting) for any person providing Services. If any of the Consultant's employees who are assigned to provide Services do not have the appropriate fingerprinting clearance, the Consultant must give the District the information necessary to process and obtain fingerprint clearance and reimburse the District for the cost to the District of obtaining the clearance. The District will deduct the cost of the fingerprinting clearance from the next payment due to the Consultant. If any person providing Services leaves the employment of the Consultant for any reason, the Consultant must notify the District, in writing, within one calendar week of the end of the person's employment. If the District has not received sufficient proof of fingerprinting clearance for any person providing Services, the District will deduct the cost of the Services provided by the person from the next payment due to the Consultant. Consultant agrees that Consultant will perform or cause a third party to perform a background check of all individuals providing Services. Consultant further agrees to confirm that all individuals providing Services for which a license is required by the State and for which fingerprinting is required to obtain that license, have in fact been fingerprinted in connection with the issuance of that license.

24. **No End User Agreements:** In the event that the Consultant enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the Agreement will apply.

25. **Execution:** The Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement. The Agreement may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the latter date that appears below.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ________________________________
David M. Barshay
President, Board of Education

Date: ________________________________

NEW YORK THERAPY PLACEMENT SERVICES, INC.

By: ________________________________
Barbara L. Johnston
President

Date: 6/27/19
EXHIBIT A
ACKNOWLEDGMENT WITH REGARD TO THE NEW YORK STATE EDUCATION
DEPARTMENT WAIVER

Complete one of the following paragraphs:

1. I, Barbara L. Johnston verify that I am not a retired member of any New York State
   Public Retirement System, and therefore do not require a waiver from the New York State Education
   Department to perform the duties for which I have contracted.

   Signed

   Date

2. I, __________________________ verify that I am a retired member of a New York State Public
   Retirement System but all collective earnings from any public employment in New York State will not
   and does not exceed the current earnings limitation. Therefore, I do not require a waiver from the New
   York State Education Department to perform the duties for which I have contracted.

   Signed

   Date

3. I, __________________________ verify that I am a retired member of a New York State Public
   Retirement System and I expect that my collective earnings from any public employment in New York
   State will exceed the current earnings limitation. Therefore, I require a waiver from the New York
   State Education Department and I request that __________________________ School District file a request
   for the waiver on my behalf.

   Signed

   Date

4. I, __________________________ verify that I am a retired member of any New York State
   Public Retirement System, but I do not require a waiver from the New York State Education
   Department to perform the duties for which I have contracted because I am at least 65 years old.

   Signed

   Date
EXHIBIT B

AGREEMENT BETWEEN NEW YORK THERAPY PLACEMENT SERVICES, INC. ("the Consultant") and the DISTRICT

TERM: JULY 1, 2019 to JUNE 30, 2020

HAUPPAUGE UNION FREE SCHOOL DISTRICT’S PARENTS’ BILL OF RIGHTS REGARDING DATA PRIVACY AND SECURITY

***************************************************************************

HAUPPAUGE UNION FREE SCHOOL DISTRICT

PARENTS’ BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY –

Summary of Rights and Information for Parents and Students

The legislature and governor passed a group of bills that adjusted the Regents Education Reform Agenda. These bills are known collectively as the “Common Core Implementation Reform Act.” One of the key components of this act (Chapter 56, Part AA, Subpart L, of the laws of 2014) directs the Commissioner of Education to appoint a Chief Privacy Officer (CPO). A major function of this new position is to work with school districts and parents to develop elements for a parents’ bill of rights to help ensure that student data is private and secure. The State Education Department (SED) and the CPO must also recommend regulations to establish standards for data security and privacy policies that will be implemented statewide.

SED has issued a preliminary Parents’ Bill of Rights for Data Privacy and Security. The Hauppauge Union Free School District is issuing this summary of parents’ rights under the new law. While some additional elements will be developed in conjunction with the CPO, districts, parents and the Board of Regents, this summary sets forth the key rights and information that parents should be aware of in regards to ensuring the privacy and security of their student’s educational data.

The Hauppauge Union Free School District is committed to ensuring student privacy and recognizes that parents, legal guardians, and persons with a parental relationship to a student are entitled to certain rights with regard to their child’s personally identifiable information, as defined by Education Law §2-d. To this end, the District is providing the following Parent’s Bill of Rights for Data Privacy and Security:

1. A student’s personally identifiable information cannot be sold or released for any commercial purposes;

2. Parents have the right to inspect and review the complete contents of their child’s education record;

3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not
limited to, encryption, firewalls, and password protection. must be in place when data is stored or transferred;

4. A complete list of all student data elements collected by the State is available for public review at http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863, 89 Washington Avenue, New York 12234; and

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to: Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.

If the Hauppauge Union Free School District enters into a third party contract in which the service provider receives student data or teacher or principal data in order to provide a needed service for the District, supplemental information shall be developed and provided to parents that states:

6. The exclusive purposes for which the student data or teacher or principal data will be used;

7. How the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;

8. When the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

9. If and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

10. Where the student data or teacher or principal data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

The CPO as appointed by the Commissioner must secure input from parents and other education and expert stakeholders to develop additional elements for the Parents' Bill of Rights for Data Privacy and Security. The Commissioner of Education will also be promulgating regulations with a comment period for parents and other members of the public to submit comments and suggestions to the CPO.

In the meantime, you can access additional information and a question and answer document issued by SED as a preliminary Parents’ Bill of Rights for Data Privacy and Security.
If you have any further questions or concerns at this time, please contact Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Dr. Donald B. Murphy, Assistant Superintendent for Curriculum, Instruction, and Technology, Hauppauge UFSD, at (631) 761-8202.

This Bill of Rights will be included with every contract entered into by the District with an outside contractor if the contractor will receive student data or teacher or principal data. This Bill of Rights will be supplemented to include information about each contract that the District enters into with an outside contractor receiving confidential student data or teacher or principal data, including the exclusive purpose(s) for which the data will be used, how the contractor will ensure confidentiality and data protection and security requirements, the date of expiration of the contract and what happens to the data upon the expiration of the contract, if and how the accuracy of the data collected can be challenged, where the data will be stored and the security protections that will be taken.

“District Data” means all information obtained by the Consultant from the District or by the Consultant in connection with the services provided by Consultant pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publicly available by the District, with the exception of Personally Identifiable Information from student and personnel data.

1. **Use of District Data by Consultant.** The District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to the Agreement and for no other purpose.

2. **Storage and Security Protections.** The Consultant will store and process District Data in compliance with Education Law § 2-d(5) and applicable regulations of the Commissioner of Education, if any, as the same may be amended from time to time, and in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure District Data from unauthorized access, disclosure, alteration and use. The Consultant will use legally-required, industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services pursuant to the Agreement. Consultant will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

The following paragraphs describe (in such a manner as to protect data security) the specific storage methods and security protections used by the Consultant to protect District Data:

(a) Storage of Electronic Data:

[See attached NYPS Data Security and Privacy plan]
(b) Storage of Non-Electronic Data: 

(c) Personnel/Workforce Security Measures: 

(d) Physical Security Measures: 

(e) Account Management and Access Control: 

(f) All electronic District Data will be protected by the Consultant through the use of encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).

(3) **Sharing Information with Other Persons and Entities.** The Consultant will only share District Data with entities or persons authorized by the Agreement. To the extent that District Data will be shared by the Consultant with other authorized entities or persons not employed by Consultant, the Consultant will ensure that those persons or entities will be required to agree in writing that it/they will comply with all terms of the Agreement’s Plan for Security and Protection of Personally Identifiable Information, and any other Agreement provision relating to confidentiality of records and data security and privacy, including, but not limited to this Exhibit B.

(4) **Destruction/Return of Data.** Upon the termination of the Agreement for any reason, the Consultant will, as directed by the District in writing, securely destroy (“securely destroy” means taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means) or return all District Data received by the Consultant as soon as reasonably possible. The District’s decision will be made in connection with all applicable laws, including the New York Arts and Cultural Affairs Law and the Records Retention and Disposition Schedule ED-1. In connection with the secure destruction of any District Data, the Consultant will provide a certificate of destruction (form and substance satisfactory to the District) to the District.

(5) **Challenge to Accuracy of Data.** A parent or guardian, student, teacher or principal can challenge the accuracy of the Data received by the Consultant by following applicable law (e.g., Family Educational Rights and Privacy Act), employment agreements, and policies, rules and regulations. If the Consultant receives a challenge to the accuracy of Data from a parent or guardian, student, teacher or principal, the
Consultant will notify the District in writing. The Consultant will not amend any Data without a written request from the District.

HAUPPAUGE UNION FREE
SCHOOL DISTRICT

By: ____________________________
    David M. Barshay
    President, Board of Education

Date: ___________________________

NEW YORK THERAPY PLACEMENT
SERVICES, INC.

By: ____________________________
    Barbara L. Johnston
    President

Date: 6/24/19
INSTRUCTIONS FOR PARENTS BILL OF RIGHTS

Exhibit B contains information required by New York Education Law § 2-d and includes information that makes up part of the mandated Plan for Protection of Personally Identifiable Information. It should contain detailed information about data storage and security measures. The Consultant must describe the ways it will store District Data and the specific security protections that will be used by the Consultant to protect District Data. Please note that these descriptions are part of a publically accessible document and must be written in a manner that will protect the Consultant’s data security.

Below, we list examples for each storage/security category set forth in Exhibit B. These are only examples and the Consultant must describe the specific storage methods and security protections it uses (again, the description must be written in a manner that will protect the Consultant’s data security). The amount of information included should not be limited by the space provided.

Examples:

(a) Storage of Electronic Data:
   • In the Cloud (specify types, private or public, etc.)
   • On Consultant’s server

(b) Storage of Non-Electronic Data:
   • Files stored in locked filing cabinets

(c) Personnel/Workforce Security Measures:
   • Describe internal policies regulating access to information and sharing information amongst coworkers
   • Describe policies relating to the requirement to return all data and property to the Consultant upon an employee’s separation from employment

(d) Account Management and Access Control:
   • Use of unique user-IDS
   • Use of passwords that are regularly and frequently updated
   • Use of automatic techniques to terminate a session upon specific conditions (e.g., idle time)
   • Policy to disable employee accounts upon termination from employment

(e) Physical Security Measures:
   • Describe security barriers and access controls (e.g., locking of doors, desks and filing cabinets)
   • Describe visitor policies (e.g., visitors are escorted at all times when visiting information processing and storage facilities
SPECIAL RIDER

FOR COMPLIANCE WITH JUNE 2, 2010 STATE EDUCATION DEPARTMENT
GUIDANCE RELATED TO CONTRACTS FOR INSTRUCTION

The parties to the annexed Agreement hereby confirm that NEW YORK THERAPY PLACEMENT
SERVICES, INC. ("the Consultant") will meet the criteria and guidelines set forth in the attached June
2, 2010 Guidance Memorandum issued by the New York State Education Department concerning
contracts for instruction ("the Guidance"). The Consultant further represents that it is capable of meeting
the criteria and guidelines set forth in the Guidance. The Consultant also agrees to provide the
Hauppauge Union Free School District ("the District") with access and student records necessary for the
District to fulfill its supervisory obligations as set forth in the Guidance.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ___________________________ Date: ___________________________
David M. Barshay
President, Board of Education

NEW YORK THERAPY
PLACEMENT SERVICES,
INC.

By: ___________________________ Date 6/20/19
Barbara L. Johnston
President
New York Therapy Placement Services, Inc.
Data Security and Privacy Plan
(Updated December 2017)

The purpose of this document is to outline the company's policies and procedures regarding the safeguarding and protection of patient health information (PHI), and to train and educate employees, subcontractors, and independent contractors in these requirements. These procedures comply with the following legislative mandates:

1. The Standards for Privacy of Individually Identifiable Health Information ("protected health information") published on December 8, 2000 by the Secretary of the U.S. Department of Health and Human Services ("HHS") to amend C.F.R. Part 160 and Part 164 (the "Privacy Regulation") under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").
3. New York State Education Law 2-d of 2014

PROTECTED DATA - DEFINITION

"Protected Data" includes any protected health information rendered confidential by State or Federal law, including, but not limited to student data, student demographics, scheduling, attendance, grades, health and discipline tracking, and all other data reasonably considered to be sensitive or confidential data by HIPAA, FERPA or Education Law 2-d.

DATA STORAGE & SECURITY

The NYTPS network system uses a domain-based Microsoft network. All data is stored on either a file server or database server. Each user has a unique ID and password. Passwords are set to be changed every 90 days for network access. Access to our member database is controlled by additional separate login ID.

All access to the network and database is based on role level access. User accounts are defined by job function and access to network resources are given based on that role. All network accounts are reviewed on at least an annual basis.

Emails that have personally identifiable information (PII) are encrypted using a software system for all outbound emails. Inbound emails can also use this system.

Backups are stored on an in-house system using data password encryption on the drives. Backups are stored in alternate office location. Windows Systems are updated with all security patches on a bi-weekly basis. Application updates are applied by vendor standards. All desktops and servers have anti-virus applications that update daily. Server systems have MSBPA (Microsoft Best Practice Analyzer) run on them before going into production and at least annually thereafter.
Remote access to network is accessed via a VPN based solution. Only users with a job role need have access to data remotely.

ACCESS TO CHILD RECORD FILES

Internal employees who have a need to access child records to perform their job duties are given password protected access to the data servers.

Any field employees requiring access to electronic child record files must be pre-authorized to be on our network. The network requires a two-step login process in which the user first must log in to our Virtual Private Network (VPN). Once accepted by the VPN, users then log in again to access the network.

Both internal and field users on the network are required to change passwords every 90 days, and past passwords may not be repeated.

E-MAIL COMMUNICATIONS

E-mails that are sent to providers for staffing a new case do not contain any personally identifiable information about the child and are sent via Microsoft Office 365 encryption. The recipients of such emails are asked to log into a secure server using a unique username and password to view/reply to these emails or request a one-time password to view/reply to that email. That password can only be used for 90 minutes to access that email and the password cannot be re-used.

PARENTS’ BILL OF RIGHTS

NYTPS will comply with Parents’ “Bill of Rights” relative to securing “Protected Data”. NYTPS will treat “Protected Data” as confidential and shall protect the nature of the Protected Data by using the same degree of care, but not less than a reasonable degree of care, as NYTPS uses to protect its own confidential data, to prevent the unauthorized dissemination or publication of Protected Data to third parties. NYTPS shall not disclose Protected Data other than to those of its employees or agents who have a need to know such Protected Data. NYTPS will not use Protected Data for any other purposes than those explicitly provided for in its contractual agreements with its customers.
AMENDING EDUCATIONAL RECORDS

If a parent or eligible student feels the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student’s rights of privacy, he or she may ask the agency to amend the record. (FERPA Subpart C, Section 99.20) Parents may exercise their right to request an amendment of their child's educational records by sending their request to:

New York Therapy Placement Services, Inc.
299 Hallock Avenue
Port Jefferson Station, NY 11776
Attn: John Johnson, Director of Operations and Compliance Officer
Phone: 631-473-4284
E-mail: john.johnson@nytps.com

New York Therapy will review the request within a reasonable time of receiving it and notify the requester of its decision to amend the record or not. If the request is denied, the requester has the right to request a hearing to challenge the decision not to amend the records. If after the hearing the agency still maintains that the contents of the record are correct, the requester may place a statement into the record commenting on the contested information or stating why he or she disagrees with the decision of the agency. This statement will be maintained by the agency with the contested part of the record and will be disclosed whenever the agency discloses that portion of the record to which the statement relates.

DATA PROTECTION BY SUBCONTRACTORS

All subcontractors and independent contractors are expected to maintain the same vigilance in protecting private health information as does the Agency. All subcontractors must sign the New York Therapy Placement Services, Inc. Business Associate Agreement which outlines the following responsibilities pertaining to safeguarding PHI:

1. PHI will not be disclosed or discussed with others, including friends or family, who do not have a need to know it.

2. PHI will be used, disclosed, accessed or viewed only to the extent required to carry out responsibilities, except as may be required by law.

3. PHI will not be discussed where others can overhear the conversation. It is not acceptable to discuss PHI in public areas even if a patient’s name is not used.

4. Inquiries about PHI will not be made on behalf of personnel not authorized to access or view such information.
5. Safeguards will be established to prevent misuse as well as inappropriate access, alteration, destruction or disclosure of PHI.

6. Violations of any of the preceding requirements will be immediately reported to New York Therapy Placement Services, Inc. at 631-473-4284.

7. After termination or expiration of providers’ agreement with New York Therapy Placement Services, Inc., provider remains responsible to continue safeguarding PHI.

8. All protected health information in the Provider’s possession will be destroyed or returned to New York Therapy Placement Services, Inc. and Provider will not retain copies or backup tapes at the termination of services.
TO: Jacqueline Pirro
FROM: Lois Jankeloff
DATE: June 21, 2019
SUBJECT: Contracts 2019-20

Please have the Board of Education sign and approve the following contracts:

Provider: New York Therapy Placement Services
Term: 7/1/19 to 6/30/20
Cost: Cost varies according to service
Service: Extended School Day Program
CONTRACT FOR
AFTER SCHOOL BEHAVIOR SUPPORT PROGRAM SERVICES

AGREEMENT dated as of the ___ day of __________, 2019 between the HAUPPAUGE
UNION FREE SCHOOL DISTRICT ("the District"), having its administrative offices at 495 Hoffman
Lane, Hauppauge, New York, 11788-2836, and NEW YORK THERAPY PLACEMENT SERVICES,
INC. ("the Consultant"), having an office at 299 Hallock Avenue, Port Jefferson Station, New York
11776.

In consideration of the mutual covenants and conditions contained in this Agreement, the
District and the Consultant hereby agree as follows:

1. Retention: The District retains the Consultant and the Consultant agrees to provide the
District with the following services ("the Services") and the Consultant makes the representations and
warranties hereinafter set forth:

   a. The Consultant agrees to provide after school behavior support program services.
The Services must be appropriate to the mental ability and physical condition of the children, and in
accordance with applicable laws, rules and regulations and currently approved methods and practices of
the profession.

   b. The Consultant agrees, at no additional cost, to attend all Committee on Special
Education meeting and provide all written reports upon request of the District. The Consultant agrees to
submit to the District: (i) written progress reports regarding student achievement of objectives on a
quarterly basis pursuant to the District's report card schedule and upon the District's request; and (ii) a
written annual progress report for each student to be reviewed at each student’s Committee on Special
Education meeting.

   c. All services must be provided in strict compliance with the student’s
Individualized Education Plan.

   d. The Consultant represents and warrants that it is duly licensed and authorized to
perform the Services and that it will provide the District with licensed and qualified individuals to perform
the Services. The Consultant further represents and warrants that the Services will be performed by
individuals that are licensed pursuant to State, federal and local laws, regulations and rules. Upon the
District’s request, the Consultant agrees to submit to the District proof of certification and/or professional
licensing of all individuals providing Services.

   e. The individuals providing Services are subject to the District’s approval, and the
District reserves the right to reject the placement of any individual.

   f. The Consultant further agrees to complete and submit, upon the request of the
District, all forms to document the Services provided to Medicaid-eligible school-aged students, for
Medicaid reimbursement purposes. Consultant represents and warrants it has never been excluded from
Medicare, Medicaid, or any health care benefit program funded by the Federal government. The
Consultant represents and warrants, as a material term of this Agreement, that neither it nor any of its
employees is/are:
i. Currently excluded from or otherwise ineligible to participate in any federal or State health care program, including those defined in 42 U.S.C. § 1320 a-7b(f);

ii. The subject of any pending exclusion proceeding; or

iii. The subject of an adjudication or determination that it/they have committed any action that could subject the Consultant to exclusion from governmental programs (collectively, "exclusion activity").

Additionally, the Consultant agrees that, as a continuing obligation of this Agreement, the Consultant will:

i. Maintain documentation evidencing monthly exclusion checks, and will produce the documentation to the District upon its request; and

ii. Report in writing to the District any exclusion activity involving the Consultant as soon as practicable after the Consultant learns of the exclusion activity.

The Consultant will obtain whatever releases or other legal documents that are necessary for the Consultant to render full and complete reports concerning the progress of the pupil(s) covered by this Agreement.

h. The Consultant hereby agrees to furnish to the State all reports, audits, and other documentation or information required to make determinations as to eligibility pursuant to State or federal laws, regulations or rules. Those materials must be furnished at all times as required by the State. Failure to submit required materials within ten business days of demand or as required by law will constitute a material breach of this Agreement. The Consultant agrees to provide the State access to all relevant records which the State requires to determine the Consultant’s or the District’s compliance with applicable State or federal laws, regulations or rules. The Consultant agrees to retain all materials and records relevant to the execution or performance of the Agreement in accordance with the requirements of applicable law, but in no event less than six years from the date of this Agreement.

i. The Consultant must furnish each individual providing Services with a photo identification badge to be worn at all times while the individual is providing Services.

j. The Consultant hereby agrees to furnish written progress reports to the District at any time that the reports are made to the parents of the pupil(s) covered by this Agreement and will render additional reports upon the District’s request. All reports must be furnished upon termination of the Agreement. The Consultant must provide any additional information concerning a pupil’s progress upon the District’s request.
2. **Compensation:** The District will compensate the Consultant at the following rates:

<table>
<thead>
<tr>
<th>Service</th>
<th>Group Rate Per Hour Up to 12 Students/Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>BCBA/Special Education Group Behavioral Services</td>
<td>$220</td>
</tr>
<tr>
<td>Paraprofessional/Registered Behavior Technicians</td>
<td>$50</td>
</tr>
<tr>
<td>Parent Training for Group Participants by BCBA/Special Education Teacher</td>
<td>$150</td>
</tr>
</tbody>
</table>

The District will not incur any charges if the Consultant, its employees, and/or agents fail to attend a session for any reason whatsoever. If a group session is cancelled by the District, for any reason whatsoever, the District is not responsible for payment of any fee(s) associated with such services. The District will endeavor to notify Consultant of a student’s absence whenever practicable.

The Consultant must submit monthly invoices in form and substance satisfactory to the District for the Consultant’s Services. The District will pay the Consultant within 60 calendar days of its receipt, review and approval of the invoice.

3. **Term:** This Agreement is for Services provided from July 1, 2019 to June 30, 2020, unless this Agreement is terminated earlier as herein provided. The Consultant acknowledges that the District is under no obligation to renew this Agreement upon its expiration.

4. **Independent Contractor:** The Consultant is retained by the District only for the purposes and to the extent set forth in this Agreement. The Consultant’s relation to the District is solely that of an independent contractor during the period of the Consultant’s retention and delivery of Services hereunder.

If the Consultant is a corporation, partnership or LLC, neither the Consultant nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker’s Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance or malpractice insurance. With regard to employees of the Consultant, the Consultant alone will be responsible for their work, personal conduct, direction, compensation, and for payment of all employment and other taxes in relation thereto.

If the Consultant is an individual, the compensation being paid pursuant to this Agreement will not be subject to withholding taxes or other employment taxes required with respect to compensation paid by the District to an employee. The District, if required by Federal or State requirements, will submit a Form 1099 and IT 2102.1, respectively, at year-end to the Federal government and State government and to each individual Consultant having a gross income exceeding $600. The Consultant will not be
eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker's Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance, or malpractice insurance. The Consultant alone is responsible for his or her work, personal conduct, direction and for payment of all employment and other taxes in relation thereto.

5. **Indemnification:** To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney's fees and disbursements) arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the performance of the Consultant's Services hereunder, or the action of, or the failure to act by the Consultant, the Consultant's representatives or employees, or anyone for whose acts the Consultant may be liable.

In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from the Consultant pursuant to the provisions of this Paragraph 5, the District will promptly notify the Consultant of the legal proceeding, claim or demand, and give the Consultant an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the Consultant in connection with the defense, which will be at the expense of the Consultant. In the event that the Consultant fails to defend the same within 30 calendar days of receipt of the notice, the District will be entitled to assume the defense thereof, and the Consultant will be liable to repay the District for all its expenses reasonably incurred in connection with the defense (including reasonable attorney's fees, disbursements, expert witness fees and settlement payments). The failure of the District to notify the Consultant of a legal proceeding, claim or demand will not relieve the Consultant of any obligation that the Consultant has pursuant to this Paragraph 5 unless and only to the extent that the failure to notify the Consultant materially prejudices the Consultant.

The Consultant agrees not to enter into any waiver, release or settlement of any legal proceeding, claim or demand for which indemnification may be sought hereunder without the prior written consent of the District (which consent will not be unreasonably withheld).

All of the provisions of this Paragraph 5 will survive the expiration or sooner termination of this Agreement.

6. **Expenses:** The Consultant will pay all expenses incurred in connection with the performance of the Consultant's duties hereunder including, but not limited to, automobile and/or travel expenses.

7. **Required Records:** The Consultant will provide services and maintain records, logs and reports in accordance with all applicable laws, regulations and requirements of the New York State Education Department, the New York State Department of Labor and District policies and procedures in force during the term of this Agreement. All student records and logs will be the property of the District. The Consultant must provide the District with a copy of any reports, tests, evaluations or observations that are prepared in connection with the Services provided by the Consultant pursuant to this Agreement.
8. **Review of Records:** The District will have the right to examine any or all records or accounts maintained by the Consultant in connection with this Agreement.

9. **District’s Policies/Authority:** The Consultant certifies that it has reviewed and is familiar with the policies, rules and regulations of the District including, but not limited to, the District’s anti-harassment and anti-discrimination policies and regulations and the District’s Code of Conduct (collectively, “the Policies”). The Consultant will ensure that its employees, representatives, agents and subcontractors and any other person providing services or present on District property pursuant to this Agreement (collectively, “Consultant’s Service Providers”) review and become familiar with the Policies. Copies of the Policies are available at http://www.hauppauge.k12.ny.us/domain/602. The Consultant agrees that it will comply with the Policies and will cause Consultant’s Service Providers to do the same.

**THE CONSULTANT HEREBY CONFIRMS THAT IT HAS IMPLEMENTED A WRITTEN ANTI-SEXUAL HARASSMENT POLICY THAT MEETS OR EXCEEDS THE REQUIREMENTS OF NEW YORK LABOR LAW SECTION 201-G AND THAT ANNUAL TRAINING REGARDING THIS POLICY IS AND WILL BE PROVIDED TO ALL OF ITS EMPLOYEES CONSISTENT WITH LAW.**

Any allegation that the Consultant or one of Consultant’s Service Providers has been subjected to harassment or discrimination while providing services or while present on District property pursuant to this Agreement must be reported immediately to the Assistant Superintendent for Personnel & Administration (or to the Superintendent if the Assistant Superintendent for Personnel & Administration is the subject of the allegation or concern). The Consultant confirms that it has notified the Consultant’s Service Providers of this requirement.

The Consultant will carry out the orders, directions and policies conveyed by the District from time to time either orally or in writing, provided, however, that the Consultant will determine the manner of carrying out the Consultant’s professional duties hereunder consistent with the Consultant’s status as an independent contractor.

10. **Insurance:** The Consultant will obtain and keep in full force and effect during the term of this Agreement, at the Consultant’s sole cost and expense, the following insurance:

   a. **Commercial General Liability Insurance**

      $1,000,000 per occurrence/$2,000,000 aggregate (must include coverage for sexual misconduct).

   b. **Workers’ Compensation and N.Y.S. Disability**

      Statutory Workers’ Compensation, Employers’ Liability and N.Y.S. Disability Benefits Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers’ Compensation Board. ACORD certificates are not acceptable.

      A self-employed person and certain partners and corporate officers are excluded from the definition of “employee” pursuant to Workers’ Compensation Law Section 2(4). As such, individuals in such capacity are excluded from Workers’
Compensation Law coverage requirements. A person seeking an exemption must file a CE-200 form with the State. The form may be completed and submitted directly online to the Workers Compensation Board: http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp

c. Professional Errors and Omissions Insurance

$2,000,000 per occurrence/ $2,000,000 aggregate for the professional acts of the Consultant performed under this Agreement for the District. If written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement. Coverage must remain in effect for two calendar years following the completion of work.

d. Excess Insurance

$3,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Consultant hereby agrees to effectuate the naming of the District as an additional insured on the Consultant’s insurance policies, with the exception of workers’ compensation, N.Y. State disability and professional liability. Each policy naming the District as an additional insured must:

- be an insurance policy from an A.M. Best rated “secure” or better insurer, licensed in New York State; and

- state that the Consultant’s coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers.

The District must be listed as an additional insured by using endorsement CG 2026 or its equivalent. The decision to accept an alternative endorsement rests solely with the District. A completed copy of the endorsement must be attached to the certificate of insurance and the certificate must state that the endorsement is being used. The certificate of insurance must describe the specific services provided by the Consultant (e.g., physical therapy, psychological services) that are covered by the commercial general liability policy and the umbrella policy. At the District's request, the Consultant will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Consultant will provide a copy of the policy endorsements and forms.

The Consultant hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Consultant, to the extent not covered by the applicable policy.

If a policy is written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement.
The Consultant acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The Consultant must provide the District with proof satisfactory to the District that the above requirements have been met, prior to the commencement of work or use of District facilities. The failure of the District to object to the contents of the certificate or the absence of same will not be deemed a waiver of any and all rights held by the District. Upon request, the Consultant will provide the District with a copy of the Consultant’s applicable insurance policies including any endorsements, modifications, or exclusions thereto.

The District is a member/owner of the New York Schools Insurance Reciprocal ("NYSIR"). The Consultant acknowledges that the procurement of that insurance as required herein is intended to benefit not only the District, but also NYSIR as the District’s insurer.

The District, in its sole discretion, may waive one or more of the requirements set forth in this paragraph. A waiver must be in writing and signed by an authorized representative of the District.

11. **Safeguarding Information:** Neither the Consultant nor the District will use or disclose any information concerning the Services pursuant to this Agreement for any purpose which is prohibited by Federal and State statutes and/or regulations.

12. **Termination:**

   A. This Agreement may be terminated by the District “for cause” upon the occurrence of any of the following events:

   (1) Immediately upon the District delivering written notice to the Consultant of a breach by the Consultant of any of the policies, rules and regulations of the District relating to the health or safety of students or District employees;

   (2) Immediately upon the Consultant’s breach of the Consultant’s obligations to provide the insurance coverage set forth in Paragraph 10;

   (3) Immediately upon the Consultant’s breach of any of the Consultant’s obligations pursuant to, or violation of, any applicable State or federal law or regulation; or

   (4) Fifteen calendar days after the Consultant has received written notice from the District that the Consultant has breached any of the Consultant’s other obligations hereunder unless, within the 15 calendar day period, the Consultant cures the breach to the District’s satisfaction.

   (5) Upon termination of this Agreement “for cause,” the Consultant is not entitled to any further payments hereunder.

   B. This Agreement is automatically terminated upon the Consultant’s filing of a voluntary petition in bankruptcy or making an assignment for the benefit of creditors, or upon any other action taken or suffered, voluntarily or involuntarily, pursuant to any federal or state law for the benefit of insolvents, and upon the filing of an involuntary petition in bankruptcy against the Consultant which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph 12(B), the Consultant is not entitled to any further payments hereunder.
C. This Agreement may be terminated, at any time, by the District for convenience upon 30 calendar days' written notice to the Consultant. Upon termination of this Agreement for convenience by the District, the Consultant is entitled to receive all sums due, accrued and unpaid as of the date of termination.

D. In the event of termination for any reason, all reports and Services due to the District must be completed by the Consultant and delivered to the District within 30 calendar days of the termination date.

13. **Signing of Acknowledgement:** The Consultant agrees to complete and sign an Acknowledgement Form with regard to the New York State Education Department Waiver for the New York State Public Retirement System with respect to each owner of the Consultant and each principal employee of the Consultant. A schedule of such persons is attached as Exhibit A.

14. **Notices:** Any notices required or permitted to be given pursuant to the terms of this Agreement must be in writing and either personally delivered or sent by nationally recognized overnight carrier to the parties at the following addresses:

**To the Consultant:**

New York Therapy Placement Services, Inc.
299 Hallock Avenue
Port Jefferson Station, New York 11776

**To the District:**

Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Attention: Assistant Superintendent for Business and Operations

**With a copy to:**

Lamb & Barnosky, LLP
534 Broadhollow Road, Suite 210
P.O. Box 9034
Melville, New York 11747
Attention: Eugene R. Barnosky, Esq.

If the notice is sent by personal mail, it will be deemed delivered upon receipt and if sent by registered or certified mail, it will be deemed delivered 3 days after so mailing.

15. **Entire Agreement:** This Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, by and between the parties.

16. **Modification:** This Agreement may not be changed orally, but only by an agreement in writing signed by the party or parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or provision of this Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.
17. **Governing Law, Choice of Forum and Waiver of Jury Trial:** This Agreement is subject to, governed by, enforced according to and construed according to the laws of the State of New York, without regard to the conflicts of laws provisions thereof. Any dispute arising under this Agreement will be litigated in a New York State Court in Suffolk County, New York. The parties each waive trial by jury in any action concerning this Agreement.

18. **No Assignment:** In accordance with the provisions of General Municipal Law § 109, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of the Consultant’s rights, title, or interest in this Agreement, or the Consultant’s power to execute this Agreement to any other person or corporation without the previous consent in writing from the District.

19. **Third-Party Beneficiaries:** There are no third-party beneficiaries of or in this Agreement, other than NYSIR.

20. **Negotiated Agreement:** This is a negotiated Agreement. It will not be construed against any party by reason of this Agreement being prepared by that party’s attorney. Each party warrants that it/he/she has full power to execute, deliver and perform this Agreement and has taken all actions required by law, organizational documents or otherwise to authorize the execution and delivery of this Agreement.

21. **Iran Divestment Act of 2012:** By signing this Agreement, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its/his/her own organization, under penalty of perjury, that to the best of its/his/her knowledge and belief that each person is not on the list created pursuant New York State Finance Law § 165-a(3)(b).

22. **Plan for Security and Protection of Personally Identifiable Information:**

   A. **“District Data”** means all information obtained by the Consultant from the District or by the Consultant in connection with the Services provided by the Consultant pursuant to this Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District, with the exception of PII from student and personnel data.

   B. **“Personally Identifiable Information” or “PII”** includes, but is not limited to: (i) a person’s name or address or the names or addresses of a student’s parents or other family members; (ii) any personal identifier (e.g., SSN, student number or biometric record); (iii) indirect identifiers (e.g., date of birth, place of birth, or mother’s maiden name); (iv) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or Consultant reasonably believes knows the identity of the person to whom a record relates.

   C. The Consultant represents and warrants that it will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of District Data.

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D. The Consultant represents and warrants that District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to this Agreement and for no other purpose.

E. The Consultant represents and warrants that it will only collect data from the District or District employees or other End Users (the term “End Users” means the individuals authorized by the District to access and use services provided by the Consultant pursuant to this Agreement) that is necessary to fulfill the Consultant’s duties pursuant to this Agreement.

F. The Parties agree that all rights including all intellectual property rights in and to District Data will remain the exclusive property of the District and that the Consultant has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

G. The Consultant agrees not to sell District Data and agrees not to use any District Data to advertise or market to District employees or other End Users or use or allow any other person or entity to use District Data for any commercial or marketing purpose, other than to perform the Consultant’s obligations pursuant to this Agreement. “Commercial or marketing purpose” means the sale of District Data or its use or disclosure, whether directly or indirectly, to derive a profit for advertising purposes or to develop, improve or market products or services.

H. The Consultant agrees that, upon receipt of District Data, it will: (i) limit the Consultant’s internal access to District Data to employees with legitimate educational interests (i.e., access will be limited to those employees who must access District Data to implement the terms of this Agreement); (ii) use District Data only for the purposes explicitly authorized by this Agreement; (iii) not disclose any PII from District Data to any other party (a party other than an employee with a legitimate educational interest) without the District’s prior written consent (if necessary, the District will obtain the required consent(s) from third parties), unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order); (iv) maintain reasonable safeguards to maintain confidentiality of PII in District Data and adopt technologies, safeguards and practices that align with the required version of the National Institute for Standards and Technology Framework for Improving Critical Infrastructure and any other legally required cybersecurity frameworks or standards; (v) use legally mandated encryption technology to protect District Data from unauthorized disclosure; and (vi) store all District Data within the United States of America.

I. If the Consultant has access to District Data that is subject to the Family Educational Rights and Privacy Act (“FERPA”), the Consultant acknowledges that for purposes of this Agreement it will be designated as a “school official” with a “legitimate educational interest” pursuant to FERPA and its implementing regulations, and the Consultant agrees to abide by the limitations and requirements imposed on school officials.

J. The Consultant represents and warrants that it will comply with the District’s Parents’ Bill of Rights, as supplemented, to include information about this Agreement, a copy of which is annexed hereto as Exhibit B and is signed by the Parties.

K. The Consultant represents and warrants that it has provided or, within 30 calendar days of the date of this Agreement and prior to allowing any of its employees access to
District Data, will provide training, about the State and federal laws and regulations governing confidentiality of District Data to any employee who has access to District Data.

L. Except as prohibited by law, the Consultant will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by Consultant seeking District Data; (ii) consult with the District regarding its response; (iii) cooperate with the District’s reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and (iv) upon the District’s request, provide the District with a copy of Consultant’s response.

M. Upon the District’s request, the Consultant agrees that it will promptly make any District Data held by the Consultant available to the District.

N. A breach is any unauthorized access, use or disclosure of District Data. The Consultant agrees to notify the District of any breach. This notification will be made in the most expeditious way possible and without delay. The Consultant must also notify the District in writing of the breach. This written notification must be sent by the Consultant within one calendar day of the breach and must be sent to the District by email to the Deputy Superintendent and either personally delivered or sent by nationally recognized overnight carrier to the District. In the event of a breach attributed to the Consultant or the Consultant’s assignees or subcontractors, the Consultant must reimburse the District for all the District’s costs associated with the District’s obligation to notify the State’s chief privacy officer, parents, students, teachers and/or principals of the breach.

O. The parties agree to execute an amendment to this Agreement if required for compliance with any new laws or regulations relating to the confidentiality, security and privacy of data.

P. To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from the District’s notification obligations set forth above in Subparagraph N.

Q. All the provisions of this Paragraph 22 will survive the expiration or sooner termination of this Agreement.

23. **Fingerprinting:** The Consultant will be responsible for compliance with the requirements of all applicable laws, rules and regulations, including, but not limited to Project Save and the Safe Schools Act with respect to any person providing Services involving direct contact with District students. All persons providing Services involving direct contact with District students must receive fingerprinting clearance prior to providing the Services. Written proof of clearance of each person (in form and substance satisfactory to the District) will be provided to the District prior to the provision of Services. The Consultant will inform the District, in writing, within one business day of the Consultant’s receipt of a notice of subsequent arrest (or any other notice related to fingerprinting) for any person providing Services. If any of the Consultant’s employees who are assigned to provide Services do not have the appropriate fingerprinting clearance, the Consultant must give the District the information necessary to process and obtain fingerprint clearance and reimburse the District for the
cost to the District of obtaining the clearance. The District will deduct the cost of the fingerprinting clearance from the next payment due to the Consultant. If any person providing Services leaves the employment of the Consultant for any reason, the Consultant must notify the District, in writing, within one calendar week of the end of the person's employment. If the District has not received sufficient proof of fingerprinting clearance for any person providing Services, the District will deduct the cost of the Services provided by the person from the next payment due to the Consultant. Consultant agrees that Consultant will perform or cause a third party to perform a background check of all individuals providing Services. Consultant further agrees to confirm that all individuals providing Services for which a license is required by the State and for which fingerprinting is required to obtain that license, have in fact been fingerprinted in connection with the issuance of that license.

24. **No End User Agreements:** In the event that the Consultant enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the Agreement will apply.

25. **Execution:** The Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement. The Agreement may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the latter date that appears below.

**HAUPPAUGE UNION FREE SCHOOL DISTRICT**

By: ____________________________

David M. Barshay
President, Board of Education

Date: ____________________________

**NEW YORK THERAPY PLACEMENT SERVICES, INC.**

By: ____________________________

Barbara L. Johnston/President

Date: 6/30/19
EXHIBIT A
ACKNOWLEDGMENT WITH REGARD TO THE NEW YORK STATE EDUCATION DEPARTMENT WAIVER

Complete one of the following paragraphs:

1. I, ______________, verify that I am not a retired member of any New York State Public Retirement System, and therefore do not require a waiver from the New York State Education Department to perform the duties for which I have contracted.

   [Signature]
   [Date]

2. I, ______________, verify that I am a retired member of a New York State Public Retirement System but all collective earnings from any public employment in New York State will not and does not exceed the current earnings limitation. Therefore, I do not require a waiver from the New York State Education Department to perform the duties for which I have contracted.

   [Signature]
   [Date]

3. I, ______________, verify that I am a retired member of a New York State Public Retirement System and I expect that my collective earnings from any public employment in New York State will exceed the current earnings limitation. Therefore, I require a waiver from the New York State Education Department and I request that ________________ School District file a request for the waiver on my behalf.

   [Signature]
   [Date]

4. I, ______________, verify that I am a retired member of any New York State Public Retirement System, but I do not require a waiver from the New York State Education Department to perform the duties for which I have contracted because I am at least 65 years old.

   [Signature]
   [Date]
EXHIBIT B
AGREEMENT BETWEEN NEW YORK THERAPY PLACEMENT SERVICES, INC. ("the Consultant") and the DISTRICT FOR AFTER SCHOOL BEHAVIOR SUPPORT SERVICES

TERM: JULY 1, 2019 to JUNE 30, 2020

HAUPPAUGE UNION FREE SCHOOL DISTRICT'S PARENTS' BILL OF RIGHTS REGARDING DATA PRIVACY AND SECURITY

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HAUPPAUGE UNION FREE SCHOOL DISTRICT

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY –

Summary of Rights and Information for Parents and Students

The legislature and governor passed a group of bills that adjusted the Regents Education Reform Agenda. These bills are known collectively as the “Common Core Implementation Reform Act.” One of the key components of this act (Chapter 56, Part AA, Subpart L, of the laws of 2014) directs the Commissioner of Education to appoint a Chief Privacy Officer (CPO). A major function of this new position is to work with school districts and parents to develop elements for a parents’ bill of rights to help ensure that student data is private and secure. The State Education Department (SED) and the CPO must also recommend regulations to establish standards for data security and privacy policies that will be implemented statewide.

SED has issued a preliminary Parents’ Bill of Rights for Data Privacy and Security. The Hauppauge Union Free School District is issuing this summary of parents’ rights under the new law. While some additional elements will be developed in conjunction with the CPO, districts, parents and the Board of Regents, this summary sets forth the key rights and information that parents should be aware of in regards to ensuring the privacy and security of their student’s educational data.

The Hauppauge Union Free School District is committed to ensuring student privacy and recognizes that parents, legal guardians, and persons with a parental relationship to a student are entitled to certain rights with regard to their child’s personally identifiable information, as defined by Education Law §2-d. To this end, the District is providing the following Parent’s Bill of Rights for Data Privacy and Security:

1. A student’s personally identifiable information cannot be sold or released for any commercial purposes;

2. Parents have the right to inspect and review the complete contents of their child’s education record;

3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not
limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred;

4. A complete list of all student data elements collected by the State is available for public review at http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863, 89 Washington Avenue, New York 12234; and

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to: Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.

If the Hauppauge Union Free School District enters into a third party contract in which the service provider receives student data or teacher or principal data in order to provide a needed service for the District, supplemental information shall be developed and provided to parents that states:

6. The exclusive purposes for which the student data or teacher or principal data will be used;

7. How the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;

8. When the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

9. If and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

10. Where the student data or teacher or principal data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

The CPO as appointed by the Commissioner must secure input from parents and other education and expert stakeholders to develop additional elements for the Parents’ Bill of Rights for Data Privacy and Security. The Commissioner of Education will also be promulgating regulations with a comment period for parents and other members of the public to submit comments and suggestions to the CPO.

In the meantime, you can access additional information and a question and answer document issued by SED as a preliminary Parents’ Bill of Rights for Data Privacy and Security.
If you have any further questions or concerns at this time, please contact Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Dr. Donald B. Murphy, Assistant Superintendent for Curriculum, Instruction, and Technology, Hauppauge UFSD, at (631) 761-8202.

This Bill of Rights will be included with every contract entered into by the District with an outside contractor if the contractor will receive student data or teacher or principal data. This Bill of Rights will be supplemented to include information about each contract that the District enters into with an outside contractor receiving confidential student data or teacher or principal data, including the exclusive purpose(s) for which the data will be used, how the contractor will ensure confidentiality and data protection and security requirements, the date of expiration of the contract and what happens to the data upon the expiration of the contract, if and how the accuracy of the data collected can be challenged, where the data will be stored and the security protections that will be taken.

"District Data" means all information obtained by the Consultant from the District or by the Consultant in connection with the services provided by Consultant pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, "District Data" does not include any information made publically available by the District, with the exception of Personally Identifiable Information from student and personnel data.

(1) **Use of District Data by Consultant.** The District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to the Agreement and for no other purpose.

(2) **Storage and Security Protections.** The Consultant will store and process District Data in compliance with Education Law § 2-d(5) and applicable regulations of the Commissioner of Education, if any, as the same may be amended from time to time, and in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure District Data from unauthorized access, disclosure, alteration and use. The Consultant will use legally-required, industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services pursuant to the Agreement. Consultant will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

The following paragraphs describe (in such a manner as to protect data security) the specific storage methods and security protections used by the Consultant to protect District Data:

(a) Storage of Electronic Data:

See Attached NYTIP Data Security and Privacy Plan
(b) Storage of Non-Electronic Data: 


(c) Personnel/Workforce Security Measures: 


(d) Physical Security Measures: 


(e) Account Management and Access Control: 


(f) All electronic District Data will be protected by the Consultant through the use of encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).

(3) **Sharing Information with Other Persons and Entities.** The Consultant will only share District Data with entities or persons authorized by the Agreement. To the extent that District Data will be shared by the Consultant with other authorized entities or persons not employed by Consultant, the Consultant will ensure that those persons or entities will be required to agree in writing that they will comply with all terms of the Agreement’s Plan for Security and Protection of Personally Identifiable Information, and any other Agreement provision relating to confidentiality of records and data security and privacy, including, but not limited to this Exhibit B.

(4) **Destruction/Return of Data.** Upon the termination of the Agreement for any reason, the Consultant will, as directed by the District in writing, securely destroy (“securely destroy” means taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means) or return all District Data received by the Consultant as soon as reasonably possible. The District’s decision will be made in connection with all applicable laws, including the New York Arts and Cultural Affairs Law and the Records Retention and Disposition Schedule ED-1. In connection with the secure destruction of any District Data, the Consultant will provide a certificate of destruction (form and substance satisfactory to the District) to the District.

(5) **Challenge to Accuracy of Data.** A parent or guardian, student, teacher or principal can challenge the accuracy of the Data received by the Consultant by following applicable law (e.g., Family Educational Rights and Privacy Act), employment agreements, and policies, rules and regulations. If the Consultant receives a challenge to the accuracy of Data from a parent or guardian, student, teacher or principal, the
Consultant will notify the District in writing. The Consultant will not amend any Data without a written request from the District.

HAUPPAUGE UNION FREE
SCHOOL DISTRICT

By: __________________________
    David M. Barsbay
    President, Board of Education

Date: _________________________

NEW YORK THERAPY PLACEMENT
SERVICES, INC.

By: __________________________
    Barbara L. Johnston
    President

Date: 6/20/19
INSTRUCTIONS FOR PARENTS BILL OF RIGHTS

Exhibit B contains information required by New York Education Law § 2-d and includes information that makes up part of the mandated Plan for Protection of Personally Identifiable Information. It should contain detailed information about data storage and security measures. The Consultant must describe the ways it will store District Data and the specific security protections that will be used by the Consultant to protect District Data. Please note these descriptions are part of a publically accessible document and must be written in a manner that will protect the Consultant’s data security.

Below, we list examples for each storage/security category set forth in Exhibit B. These are only examples and the Consultant must describe the specific storage methods and security protections it uses (again, the description must be written in a manner that will protect the Consultant’s data security). The amount of information included should not be limited by the space provided.

Examples:

(a) **Storage of Electronic Data:**
- In the Cloud (specify types, private or public, etc.)
- On Consultant’s server

(b) **Storage of Non-Electronic Data:**
- Files stored in locked filing cabinets

(c) **Personnel/Workforce Security Measures:**
- Describe internal policies regulating access to information and sharing information amongst coworkers
- Describe policies relating to the requirement to return all data and property to the Consultant upon an employee’s separation from employment

(d) **Account Management and Access Control:**
- Use of unique user-ID
- Use of passwords that are regularly and frequently updated
- Use of automatic techniques to terminate a session upon specific conditions (e.g., idle time)
- Policy to disable employee accounts upon termination from employment

(e) **Physical Security Measures:**
- Describe security barriers and access controls (e.g., locking of doors, desks and filing cabinets)
- Describe visitor policies (e.g., visitors are escorted at all times when visiting information processing and storage facilities

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SPECIAL RIDER

FOR COMPLIANCE WITH JUNE 2, 2010 STATE EDUCATION DEPARTMENT GUIDANCE RELATED TO CONTRACTS FOR INSTRUCTION

The parties to the annexed Agreement hereby confirm that NEW YORK THERAPY PLACEMENT SERVICES, INC. ("the Consultant") will meet the criteria and guidelines set forth in the attached June 2, 2010 Guidance Memorandum issued by the New York State Education Department concerning contracts for instruction ("the Guidance"). The Consultant further represents that it is capable of meeting the criteria and guidelines set forth in the Guidance. The Consultant also agrees to provide the Hauppauge Union Free School District ("the District") with access and student records necessary for the District to fulfill its supervisory obligations as set forth in the Guidance.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ___________________________ Date: _________________
    David M. Barshay
    President, Board of Education

NEW YORK THERAPY PLACEMENT SERVICES, INC.

By: ___________________________ Date: 6/2/2019
    Barbara L. Johnston
    Title:
New York Therapy Placement Services, Inc.
Data Security and Privacy Plan
(Updated December 2017)

The purpose of this document is to outline the company's policies and procedures regarding the safeguarding and protection of patient health information (PHI), and to train and educate employees, subcontractors, and independent contractors in these requirements. These procedures comply with the following legislative mandates:

1. The Standards for Privacy of Individually Identifiable Health Information ("protected health information") published on December 8, 2000 by the Secretary of the U.S. Department of Health and Human Services ("HHS") to amend C.F.R. Part 160 and Part 164 (the "Privacy Regulation") under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").
3. New York State Education Law 2-d of 2014

PROTECTED DATA - DEFINITION

"Protected Data" includes any protected health information rendered confidential by State or Federal law, including, but not limited to student data, student demographics, scheduling, attendance, grades, health and discipline tracking, and all other data reasonably considered to be sensitive or confidential data by HIPAA, FERPA or Education Law 2-d.

DATA STORAGE & SECURITY

The NYTPS network system uses a domain-based Microsoft network. All data is stored on either a file server or database server. Each user has a unique ID and password. Passwords are set to be changed every 90 days for network access. Access to our member database is controlled by additional separate login ID.

All access to the network and database is based on role level access. User accounts are defined by job function and access to network resources are given based on that role. All network accounts are reviewed on at least an annual basis.

Emails that have personally identifiable information (PII) are encrypted using a software system for all outbound emails. Inbound emails can also use this system.

Backups are stored on an in-house system using data password encryption on the drives. Backups are stored in alternate office location. Windows Systems are updated with all security patches on a bi-weekly basis. Application updates are applied by vendor standards. All desktops and servers have anti-virus applications that update daily. Server systems have MSBPA (Microsoft Best Practice Analyzer) run on them before going into production and at least annually thereafter.
Remote access to network is accessed via a VPN based solution. Only users with a job role need have access to data remotely.

ACCESS TO CHILD RECORD FILES

Internal employees who have a need to access child records to perform their job duties are given password protected access to the data servers.

Any field employees requiring access to electronic child record files must be pre-authorized to be on our network. The network requires a two-step login process in which the user first must log in to our Virtual Private Network (VPN). Once accepted by the VPN, users then log in again to access the network.

Both internal and field users on the network are required to change passwords every 90 days, and past passwords may not be repeated.

E-MAIL COMMUNICATIONS

E-mails that are sent to providers for staffing a new case do not contain any personally identifiable information about the child and are sent via Microsoft Office 365 encryption. The recipients of such emails are asked to log into a secure server using a unique username and password to view/reply to these emails or request a one-time password to view/reply to that email. That password can only be used for 90 minutes to access that email and the password cannot be re-used.

PARENTS’ BILL OF RIGHTS

NYTPS will comply with Parents’ “Bill of Rights” relative to securing “Protected Data”. NYTPS will treat “Protected Data” as confidential and shall protect the nature of the Protected Data by using the same degree of care, but not less than a reasonable degree of care, as NYTPS uses to protect its own confidential data, to prevent the unauthorized dissemination or publication of Protected Data to third parties. NYTPS shall not disclose Protected Data other than to those of its employees or agents who have a need to know such Protected Data. NYTPS will not use Protected Data for any other purposes than those explicitly provided for in its contractual agreements with its customers.
AMENDING EDUCATIONAL RECORDS

If a parent or eligible student feels the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student’s rights of privacy, he or she may ask the agency to amend the record. (FERPA Subpart C, Section 99.20) Parents may exercise their right to request an amendment of their child’s educational records by sending their request to:

New York Therapy Placement Services, Inc.
299 Hallock Avenue
Port Jefferson Station, NY 11776
Attn: John Johnson, Director of Operations and Compliance Officer
Phone: 631-473-4284
E-mail: john.johnson@nytps.com

New York Therapy will review the request within a reasonable time of receiving it and notify the requester of its decision to amend the record or not. If the request is denied, the requester has the right to request a hearing to challenge the decision not to amend the records. If after the hearing the agency still maintains that the contents of the record are correct, the requester may place a statement into the record commenting on the contested information or stating why he or she disagrees with the decision of the agency. This statement will be maintained by the agency with the contested part of the record and will be disclosed whenever the agency discloses that portion of the record to which the statement relates.

DATA PROTECTION BY SUBCONTRACTORS

All subcontractors and independent contractors are expected to maintain the same vigilance in protecting private health information as does the Agency. All subcontractors must sign the New York Therapy Placement Services, Inc. Business Associate Agreement which outlines the following responsibilities pertaining to safeguarding PHI:

1. PHI will not be disclosed or discussed with others, including friends or family, who do not have a need to know it.

2. PHI will be used, disclosed, accessed or viewed only to the extent required to carry out responsibilities, except as may be required by law.

3. PHI will not be discussed where others can overhear the conversation. It is not acceptable to discuss PHI in public areas even if a patient’s name is not used.

4. Inquiries about PHI will not be made on behalf of personnel not authorized to access or view such information.
5. Safeguards will be established to prevent misuse as well as inappropriate access, alteration, destruction or disclosure of PHI.

6. Violations of any of the proceeding requirements will be immediately reported to New York Therapy Placement Services, Inc. at 631-473-4284.

7. After termination or expiration of providers’ agreement with New York Therapy Placement Services, Inc., provider remains responsible to continue safeguarding PHI.

8. All protected health information in the Provider’s possession will be destroyed or returned to New York Therapy Placement Services, Inc. and Provider will not retain copies or backup tapes at the termination of services.
HAUPPAUGE PUBLIC SCHOOLS
Office of the Director of Pupil Personnel Services

TO: Jacqueline Pirro
FROM: Lois Jankeloff
DATE: June 20, 2019
SUBJECT: Contracts 2019-20

Please have the Board of Education sign and approve the following contracts:

Provider: ASCENT

Term: 7/1/19 to 6/30/20 (School Year Session)

Cost: Tuition Rate Established by the Commissioner of Education for the State of New York

Service: Special Education Program
CONTRACT FOR SCHOOL SERVICES

AGREEMENT dated as of the __ day of ____________, 2019 between the HAUPPAUGE UNION FREE SCHOOL DISTRICT ("the District"), having its administrative offices at 495 Hoffman Lane, Hauppauge, New York, 11788-2836, and ASCENT ("the School"), having an office at 819 Grand Blvd., Suite 2, Deer Park, New York 11729.

WHEREAS, the District is authorized by law to contract with institutions within the State for the instruction of students with disabilities in situations where the District is unable to provide instruction within its schools; and

WHEREAS, the School represents and warrants that it will provide the level of services required to meet the needs of the students; and

WHEREAS, the School is a registered nonpublic school chartered by the Board of Regents of the University of the State of New York as a non-profit educational corporation authorized to establish, conduct, operate and maintain an educational program for students within disabilities; and

WHEREAS, the District desires that the School provide instruction to District students placed at the School; and

WHEREAS, the School is ready and willing to provide the District’s students with instruction as more fully described herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties incorporate the above statements into the body of this Agreement as if fully set forth therein and hereby mutually agree as follows:

1. Retention: The District retains the School and the School agrees to provide the District with the following ("Services") to the student(s) set forth on the attached Confidential Schedule A ("the Students") and makes the representations and warranties hereinafter set forth:

   a. The School agrees to provide appropriate instruction, behavior intervention specialist services, home programming services and supervision of its staff providing home programming services and parent counseling and training to the Students and/or their families. The Services provided to the Students must be appropriate to the mental and physical ability of the Students and in accordance with applicable federal, State and local laws, rules and regulations. A Student's family may use another agency for home programming services if they so elect.

   b. The School represents and warrants that it is duly licensed and authorized to perform the Services and that it will utilize licensed and qualified individuals to perform the Services. The School further represent and warrants that the Services will be performed by individuals that are licensed pursuant to State, federal and local laws, regulations and rules. Upon the District’s request, the School agrees to submit to the District proof of certification and/or professional licensing of all individuals providing Services.

   c. The individuals providing Services are subject to the District's approval, and the District reserves the right to reject the placement of any individual.
d. The School agrees to complete and submit, upon the District’s request, all forms to document the Services provided to Medicaid-eligible school-aged students, for Medicaid reimbursement purposes. The School represents and warrants it has never been excluded from Medicare, Medicaid, or any health care benefit program funded by the Federal government. The School represents and warrants, as a material term of this Agreement, that neither it nor any of its employees is/are:

i. Currently excluded from or otherwise ineligible to participate in any federal or State health care program, including those defined in 42 U.S.C. § 1320 a-7b(f);

ii. The subject of any pending exclusion proceeding; or

iii. The subject of an adjudication or determination that it/they have committed any action that could subject the School to exclusion from governmental programs (collectively, "exclusion activity").

Additionally, the School agrees that, as a continuing obligation of this Agreement, the School will:

i. Maintain documentation evidencing monthly exclusion checks, and will produce the documentation to the District upon its request; and

ii. Report in writing to the District any exclusion activity involving the School as soon as practicable after the School learns of the exclusion activity.

e. The School agrees to obtain whatever releases or other legal documents are necessary for the School to render full and complete reports concerning the progress of the Students.

f. The School agrees to provide and maintain records, logs and reports in accordance with all applicable laws, regulations and requirements (including, but not limited to, the requirements of the New York State Education Department and New York State Department of Labor and District Policies).

g. The School agrees to maintain attendance records for the Students. If a Student is absent for a period of five or more consecutive school days, the attendance record must indicate the reason for the absence. Absences attributable to sickness, death of an immediate family member, and/or a family emergency will constitute an authorized absence. In the event that a Student has an unauthorized absence, the School must notify the District immediately and send a written notice to the District within 72 hours of absence.

h. The School agrees to furnish written progress reports to the District (form and substance satisfactory to the District) on a quarterly basis pursuant to the District’s report card schedule or as otherwise required by each Student’s Individualized Education Program (“IEP”). The School further agrees to provide the District with a copy of any reports, testing, evaluations, or observations that are prepared in connection with the Services and to render and provide to the District additional reports upon the District’s request. All reports must be furnished upon termination of the Agreement. The School must provide any additional information concerning a Student’s progress upon the District’s request.

i. The School agrees to participate and cooperate, as needed, with the District’s Committee on Special Education (“the CSE”), as well as in any impartial hearings and mediations.
affecting a Student. The School further agrees to provide the CSE with annual written progress reports for the Students to be reviewed at the annual CSE meeting.

j. The School hereby agrees to furnish to the State all reports, audits, and other documentation or information reasonably required to make determinations as to eligibility pursuant to State or federal laws, regulations or rules. Those materials must be furnished at all times required by the State. Failure to submit required materials within ten calendar days of demand or as required by law will constitute a material breach of this Agreement. The School agrees to provide the State access to all relevant records which the State requires to determine the School’s or the District’s compliance with applicable State or federal laws, regulations or rules. The School agrees to retain all materials and records relevant to the execution or performance of the Agreement in accordance with the requirements of applicable law, but in no event less than six years from the date of this Agreement.

k. The School agrees to furnish each individual providing Services with a photo identification badge to be worn at all times while the individual is providing Services.

l. The School agrees that all disciplinary measures for Students will be conducted in accordance with applicable federal, State and local laws, rules and regulations.

m. The School agrees that it is responsible for appropriate staff orientation and training for its employees, including but not limited to, training related to the provision of educational services to handicapped children.

n. The School represents and warrants that all instruction and facilities provided for any Student will be appropriate to the mental attainments and physical conditions of the Student and in accordance with the provisions relating to the eligibility of schools contained in the Regulations of the Commissioner of Education and comply with the Student’s most current IEP, a copy of which is provided by the District.

2. **Compensation:** The District will compensate the School at the rates set forth by the New York State Department of Education (“NYSED”). The School must submit monthly invoices in form and substance satisfactory to the District for the School’s Services. Student attendance records must be submitted with all invoices. The District will pay the School within 60 calendar days of its receipt, review and approval of the invoice. Where the rate has not yet been set by NYSED, the District will pay the School at the rate established for the previous school year. Any resulting tuition adjustment will be due upon receipt of a properly executed adjustment invoice.

In addition, the District will compensate the School for the provision of parent counseling and training at the rate of $140.00/hour.

The District reserves the right to add or delete a Student from Confidential Schedule A at any time during the term of this Agreement. The School’s compensation for Students added or removed will be prorated for the period of time services were provided to the Student.

No parent or guardian of any other person will be required to make payment for tuition or maintenance on behalf of any Student pursuant to this Agreement. Neither the School nor its employees may share or accept any payment or gratuity received from a Student or the Student’s family for the Services.
3. **Term:** This Agreement is for Services provided from July 1, 2019 to June 30, 2020, unless this Agreement is terminated earlier as herein provided. The School acknowledges that the District is under no obligation to renew this Agreement upon its expiration.

4. **Independent Contractor:** The School is retained by the District only for the purposes and to the extent set forth in this Agreement. The School’s relation to the District is solely that of an independent contractor during the period of the School’s retention and delivery of Services hereunder.

   Neither the School nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker’s Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance or malpractice insurance. With regard to employees of the School, the School alone is responsible for their work, personal conduct, direction, compensation, income and for payment of all employment and other taxes in relation thereto.

5. **Indemnification:** To the fullest extent permitted by law, the School indemnifies and will defend (with counsel selected by the District and reasonably approved by the School) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the performance of the School’s Services hereunder, or the action of, or the failure to act by the School, the School’s representatives or employees, or anyone for whose acts the School may be liable.

   In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from the School pursuant to the provisions of this Paragraph 5, the District will promptly notify the School of the legal proceeding, claim or demand, and give the School an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the School in connection with the defense, which will be at the expense of the School. In the event that the School fails to defend the same within 30 calendar days of receipt of the notice, the District will be entitled to assume the defense thereof, and the School will be liable to repay the District for all its expenses reasonably incurred in connection with the defense (including reasonable attorney’s fees, disbursements, expert witness fees and settlement payments). The failure of the District to notify the School of a legal proceeding, claim or demand will not relieve the School of any obligation that the School has pursuant to this Paragraph 5 unless and only to the extent that the failure to notify the School materially prejudices the School.

   The School agrees not to enter into any waiver, release or settlement of any legal proceeding, claim or demand for which indemnification may be sought hereunder without the prior written consent of the District (which consent will not be unreasonably withheld).

   To the fullest extent permitted by law, the District indemnifies and will defend (with counsel selected by the School and reasonably approved by the District) and hold harmless the School, its employees, agents, representatives and board members from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the
performance of the District’s duties hereunder, or the action of, or the action of the District by the District’s, the District’s representatives or employees, or anyone for whose acts the District may be liable.

In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from the District pursuant to the provisions of this Paragraph 5, the School will promptly notify the District of the legal proceeding, claim or demand, and give the District an opportunity to defend and settle same without any cost to the School, and will extend reasonable cooperation to the District in connection with the defense, which will be at the expense of the District. In the event that the District fails to defend the same within 30 calendar days of receipt of the notice, the School will be entitled to assume the defense thereof, and the District will be liable to repay the School for all its expenses reasonably incurred in connection with the defense (including reasonable attorney’s fees, disbursements, expert witness fees and settlement payments). The failure of the School to notify the District of a legal proceeding, claim or demand will not relieve the District of any obligation that the District has pursuant to this Paragraph 5 unless and only to the extent that the failure to notify the District materially prejudices the District.

The District agrees not to enter into any waiver, release or settlement of any legal proceeding, claim or demand for which indemnification may be sought hereunder without the prior written consent of the School (which consent will not be unreasonably withheld).

All of the provisions of this Paragraph 5 will survive the expiration or sooner termination of this Agreement.

6. **Expenses:** The School will pay all expenses incurred in connection with the performance of the School’s duties hereunder including, but not limited to, automobile and/or travel expenses.

7. **Review of Records:** The District will have the right to examine any or all records or accounts maintained by the School in connection with this Agreement.

8. **District’s Policies/Authority:** The School certifies that it has reviewed and is familiar with the District’s anti-harassment and anti-discrimination policies and regulations (collectively, “the Policies”). The School will ensure that its employees, representatives, agents and subcontractors and any other person providing services in the home or present on District property pursuant to this Agreement (collectively, “School’s Service Providers”) review and become familiar with the Policies. Copies of the Policies are available at http://www.hauppauge.k12.ny.us/domain/602. The School agrees that it will comply with the Policies with respect to services provided on District property or in the home and will cause School’s Service Providers to do the same.

**THE SCHOOL HEREBY CONFIRMS THAT IT HAS IMPLEMENTED A WRITTEN ANTI-SEXUAL HARASSMENT POLICY THAT MEETS OR EXCEEDS THE REQUIREMENTS OF NEW YORK LABOR LAW SECTION 201-G AND THAT ANNUAL TRAINING REGARDING THIS POLICY IS AND WILL BE PROVIDED TO ALL OF ITS EMPLOYEES CONSISTENT WITH LAW.**

Any allegation that the School’s Service Providers have been subjected to harassment or discrimination while providing services in the home or while present on District property pursuant to this Agreement must be reported immediately to the Assistant Superintendent for Personnel & Administration (or to the Superintendent if the Assistant Superintendent for Personnel & Administration is the subject of the allegation or concern). The School confirms that it has notified the School’s Service Providers of this
requirement.

The School will carry out the orders, directions and policies conveyed by the District from time to time either orally or in writing, provided, however, that the School will determine the manner of carrying out the School's professional duties hereunder consistent with the School's status as an independent contractor.

9. **Insurance:** The School will obtain and keep in full force and effect during the term of this Agreement, at the School's sole cost and expense, the following insurance:

a. **Commercial General Liability Insurance**

   $1,000,000 per occurrence/$2,000,000 aggregate (must include coverage for sexual misconduct).

b. **Workers' Compensation and N.Y.S. Disability**

   Statutory Workers' Compensation, Employers' Liability and N.Y.S. Disability Benefits Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable.

   A self-employed person and certain partners and corporate officers are excluded from the definition of "employee" pursuant to Workers' Compensation Law Section 2(4). As such, individuals in such capacity are excluded from Workers' Compensation Law coverage requirements. A person seeking an exemption must file a CE-200 form with the State. The form may be completed and submitted directly online to the Workers Compensation Board: http://www.web.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp

c. **Professional Errors and Omissions Insurance**

   $2,000,000 per occurrence/$2,000,000 aggregate for the professional acts of the School performed under this Agreement for the District. If written on a "claims-made" basis, the retroactive date must pre-date the inception of this Agreement. Coverage must remain in effect for two calendar years following the completion of work.

d. **Excess Insurance**

   $3,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the School hereby agrees to effectuate the naming of the District as an additional insured on the School's insurance policies, with the exception of workers' compensation, N.Y. State disability and professional liability. Each policy naming the District as an additional insured must:
• be an insurance policy from an insurer licensed in New York State with an A.M. Best rating of not less than "A-X";

• state that the School's coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers.

The District must be listed as an additional insured by using endorsement CG 2026 or its equivalent. The decision to accept an alternative endorsement rests solely with the District. A completed copy of the endorsement must be attached to the certificate of insurance and the certificate must state that the endorsement is being used. At the District's request, the School will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the School will provide a copy of the policy endorsements and forms.

The School hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the School, to the extent not covered by the applicable policy.

If a policy is written on a "claims-made" basis, the retroactive date must pre-date the inception of this Agreement.

The School acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The School must provide the District with proof satisfactory to the District that the above requirements have been met, prior to the commencement of work or use of District facilities. The failure of the District to object to the contents of the certificate or the absence of same will not be deemed a waiver of any and all rights held by the District. Upon request, the School will provide the District with a copy of the School's applicable insurance policies including any endorsements, modifications, or exclusions thereto.

The District is a member/owner of the New York Schools Insurance Reciprocal ("NYSIR"). The School acknowledges that the procurement of that insurance as required herein is intended to benefit not only the District, but also NYSIR as the District's insurer.

The District, in its sole discretion, may waive one or more of the requirements set forth in this paragraph. A waiver must be in writing and signed by an authorized representative of the District.

10. Safeguarding Information: Neither the School nor the District will use or disclose any information concerning the Services pursuant to this Agreement for any purpose which is prohibited by Federal and State statutes and/or regulations.

11. Termination:

A. This Agreement may be terminated by the District "for cause" upon the occurrence of any of the following events:

   (1) Immediately upon the District delivering written notice to the School of a breach by the School of any of the policies, rules and regulations of the District relating to the health or safety of students or District employees;

   (2) Immediately upon the School's breach of the School's obligations to
provide the insurance coverage set forth in Paragraph 9;

(3) Immediately upon the School’s breach of any of the School’s obligations pursuant to, or violation of, any applicable State or federal law or regulation; or

(4) Fifteen calendar days after the School has received written notice from the District that the School has breached any of the School’s other obligations hereunder unless, within the 15 calendar day period, the School cures the breach to the District’s satisfaction.

(5) Upon termination of this Agreement “for cause,” the School is not entitled to any further payments hereunder.

B. This Agreement is automatically terminated upon the School’s filing of a voluntary petition in bankruptcy or making an assignment for the benefit of creditors, or upon other action taken or suffered, voluntarily or involuntarily, pursuant to any federal or state law for the benefit of insolvents, and upon the filing of an involuntary petition in bankruptcy against the School which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph 11(B), the School is not entitled to any further payments hereunder.

C. This Agreement may be terminated, at any time, by either party for convenience upon 90 calendar days’ written notice to the other party. Upon termination of this Agreement for convenience by the District, the School is entitled to receive all sums due, accrued and unpaid as of the date of termination.

D. This Agreement may be terminated by the School for cause 15 calendar days after the District has received written notice from the School that the District has breached its payment obligations hereunder unless, within the 15 calendar-day period the District cures the breach by payment.

E. In the event of termination for any reason, all reports and Services due to the District must be completed by the School and delivered to the District within 30 calendar days of the termination date.

12. Notices: Any notices required or permitted to be given pursuant to the terms of this Agreement must be in writing and either personally delivered or sent by nationally recognized overnight carrier to the parties at the following addresses:

To the School:

ASCENT
819 Grand Blvd.
Suite 2
Deer Park, New York 11729

To the District:

Hauppauge Union Free School District:
495 Hoffman Lane
Hauppauge, NY 11788-2836
Attention: Assistant Superintendent for Business and Operations
With a copy to:

Lamb & Barnosky, LLP
534 Broadhollow Road, Suite 210
P.O. Box 9034
Melville, New York 11747
Attention: Eugene R. Barnosky, Esq.

If the notice is sent by personal mail, it will be deemed delivered upon receipt and if sent by registered or certified mail, it will be deemed delivered 3 days after so mailing.

13. **Entire Agreement:** This Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, by and between the parties.

14. **Modification:** This Agreement may not be changed orally, but only by an agreement in writing signed by the party or parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or provision of this Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.

15. **Governing Law, Choice of Forum and Waiver of Jury Trial:** This Agreement is subject to, governed by, enforced according to and construed according to the laws of the State of New York, without regard to the conflicts of laws provisions thereof. Any dispute arising under this Agreement will be litigated in a New York State Court in Suffolk County, New York. The parties each waive trial by jury in any action concerning this Agreement.

16. **No Assignment:** In accordance with the provisions of General Municipal Law § 109, the School is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of the School’s rights, title, or interest in this Agreement, or the School’s power to execute this Agreement to any other person or corporation without the previous consent in writing from the District.

17. **Third-Party Beneficiaries:** There are no third-party beneficiaries of or in this Agreement, other than NYSIR.

18. **Negotiated Agreement:** This is a negotiated Agreement. It will not be construed against any party by reason of this Agreement being prepared by that party’s attorney. Each party warrants that it/he/she has full power to execute, deliver and perform this Agreement and has taken all actions required by law, organizational documents or otherwise to authorize the execution and delivery of this Agreement.

19. **Iran Divestment Act of 2012:** By signing this Agreement, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its/his/her own organization, under penalty of perjury, that to the best of its/his/her knowledge and belief that each person is not on the list created pursuant New York State Finance Law § 165-a(3)(b).

20. **Plan for Security and Protection of Personally Identifiable Information:**

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**ASCENT - 2019-2020 CONTRACT FOR SCHOOL SERVICES - 9 -**
A. "District Data" means all information obtained by the School from the District or by the School in connection with the Services provided by the School pursuant to this Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, "District Data" does not include any information made publically available by the District, with the exception of PII from student and personnel data.

B. "Personally Identifiable Information" or "PII" includes, but is not limited to: (i) a person’s name or address or the names or addresses of a student’s parents or other family members; (ii) any personal identifier (e.g., SSN, student number or biometric record); (iii) indirect identifiers (e.g., date of birth, place of birth, or mother’s maiden name); (iv) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or School reasonably believes knows the identity of the person to whom a record relates.

C. The School represents and warrants that it will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of District Data.

D. The School represents and warrants that District Data received by the School will be used only to perform School’s obligations pursuant to this Agreement and for no other purpose.

E. The School represents and warrants that it will only collect data from the District or District employees or other End Users (the term “End Users” means the individuals authorized by the District to access and use services provided by the School pursuant to this Agreement) that is necessary to fulfill the School’s duties pursuant to this Agreement.

F. The Parties agree that all rights including all intellectual property rights in and to District Data will remain the exclusive property of the District and that the School has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

G. The School agrees not to sell District Data and agrees not to use any District Data to advertise or market to District employees or other End Users or use or allow any other person or entity to use District Data for any commercial or marketing purpose, other than to perform the School’s obligations pursuant to this Agreement. “Commercial or marketing purpose” means the sale of District Data or its use or disclosure, whether directly or indirectly, to derive a profit for advertising purposes or to develop, improve or market products or services.

H. The School agrees that, upon receipt of District Data, it will: (i) limit the School’s internal access to District Data to employees with legitimate educational interests (i.e., access will be limited to those employees who must access District Data to implement the terms of this Agreement); (ii) use District Data only for the purposes explicitly authorized by this Agreement; (iii) not disclose any PII from District Data to any other party (a party other than an employee with a legitimate educational interest) without the District’s prior written consent (if necessary, the District will obtain the required consent(s) from third parties), unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order); (iv) maintain reasonable safeguards to maintain confidentiality of PII in District Data; (v) use legally mandated encryption technology to protect District Data from unauthorized disclosure; and (vi) store all District Data within the United States of America.

I. If the School has access to District Data that is subject to the Family Educational
Rights and Privacy Act ("FERPA"), the School acknowledges that for purposes of this Agreement it will be designated as a "school official" with a "legitimate educational interest" pursuant to FERPA and its implementing regulations, and the School agrees to abide by the limitations and requirements imposed on school officials.

J. The School represents and warrants that it will comply with the District's Parents' Bill of Rights, as supplemented, to include information about this Agreement, a copy of which is annexed hereto as Exhibit A and is signed by the Parties.

K. The School represents and warrants that it has provided or, within 30 calendar days of the date of this Agreement and prior to allowing any of its employees access to District Data, will provide training, about the State and federal laws and regulations governing confidentiality of District Data to any employee who has access to District Data.

L. Except as prohibited by law, the School will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by School seeking District Data; (ii) consult with the District regarding its response; (iii) cooperate with the District's reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and (iv) upon the District's request, provide the District with a copy of School's response.

M. Upon the District's request, the School agrees that it will promptly make any District Data held by the School available to the District.

N. A breach is any unauthorized access, use or disclosure of District Data. The School agrees to notify the District of any breach. This notification will be made in the most expedient way possible and without delay. The School must also notify the District in writing of the breach. This written notification must be sent by the School within one calendar day of the breach and must be sent to the District by email to the Deputy Superintendent and either personally delivered or sent by nationally recognized overnight carrier to the District. In the event of a breach attributed to the School or the School's assignees or subcontractors, the School must reimburse the District for all the District's costs associated with the District's obligation to notify the State's chief privacy officer, parents, students, teachers and/or principals of the breach.

O. The parties agree to execute an amendment to this Agreement if required for compliance with any new laws or regulations relating to the confidentiality, security and privacy of data.

P. To the fullest extent permitted by law, the School indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney's fees and disbursements) arising from the District's notification obligations set forth above in Subparagraph N.

Q. All the provisions of this Paragraph 20 will survive the expiration or sooner termination of this Agreement.

21. Fingerprinting: The School will be responsible for compliance with the requirements of all applicable laws, rules and regulations, including, but not limited to Project Save and the Safe Schools Act with respect to any person providing Services involving direct contact with District
students. All persons providing Services involving direct contact with District students must receive fingerprinting clearance prior to providing the Services. Written proof of clearance of each person (in form and substance satisfactory to the District) will be provided to the District prior to the provision of Services. The School will inform the District, in writing, within one business day of the School’s receipt of a notice of subsequent arrest (or any other notice related to fingerprinting) for any person providing Services. If any of the School’s employees who are assigned to provide Services do not have the appropriate fingerprinting clearance, the School must give the District the information necessary to process and obtain fingerprint clearance and reimburse the District for the cost to the District of obtaining the clearance. The District will deduct the cost of the fingerprinting clearance from the next payment due to the School. If any person providing Services leaves the employment of the School for any reason, the School must notify the District, in writing, within one calendar week of the end of the person’s employment. If the District has not received sufficient proof of fingerprinting clearance for any person providing Services, the District will deduct the cost of the Services provided by the person from the next payment due to the School. The School agrees that the School will perform or cause a third party to perform a background check of all individuals providing Services. School further agrees to confirm that all individuals providing Services for which a license is required by the State and for which fingerprinting is required to obtain that license, have in fact been fingerprinted in connection with the issuance of that license.

22. No End User Agreements: In the event that the School enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the Agreement will apply.

23. Execution: The Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement. The Agreement may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the latter date that appears below.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ______________________________
    David M. Barshay
    President, Board of Education

Date: ______________________________

ASCENT

By: ______________________________
    Nancy Shamow, Executive Director

Date: 6/20/19

ASCENT - 2019-2020 CONTRACT FOR SCHOOL SERVICES - 12 -
CONFIDENTIAL SCHEDULE “A”

Student(s) to whom services shall be provided pursuant to this Agreement:

<table>
<thead>
<tr>
<th>Name</th>
<th>Date of Birth</th>
<th>Attendance at the Following: (Check all that apply)</th>
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AGREEMENT BETWEEN ASCENT ("the School") and the DISTRICT

TERM: JULY 1, 2019 to JUNE 30, 2020

HAUPPAUGE UNION FREE SCHOOL DISTRICT'S PARENTS' BILL OF RIGHTS REGARDING DATA PRIVACY AND SECURITY

=========================================================================

HAUPPAUGE UNION FREE SCHOOL DISTRICT

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY –

Summary of Rights and Information for Parents and Students

The legislature and governor passed a group of bills that adjusted the Regents Education Reform Agenda. These bills are known collectively as the “Common Core Implementation Reform Act.” One of the key components of this act (Chapter 56, Part AA, Subpart L, of the laws of 2014) directs the Commissioner of Education to appoint a Chief Privacy Officer (CPO). A major function of this new position is to work with school districts and parents to develop elements for a parents' bill of rights to help ensure that student data is private and secure. The State Education Department (SED) and the CPO must also recommend regulations to establish standards for data security and privacy policies that will be implemented statewide.

SED has issued a preliminary Parents’ Bill of Rights for Data Privacy and Security. The Hauppauge Union Free School District is issuing this summary of parents’ rights under the new law. While some additional elements will be developed in conjunction with the CPO, districts, parents and the Board of Regents, this summary sets forth the key rights and information that parents should be aware of in regards to ensuring the privacy and security of their student’s educational data.

The Hauppauge Union Free School District is committed to ensuring student privacy and recognizes that parents, legal guardians, and persons with a parental relationship to a student are entitled to certain rights with regard to their child's personally identifiable information, as defined by Education Law §2-d. To this end, the District is providing the following Parent’s Bill of Rights for Data Privacy and Security:

1. A student’s personally identifiable information cannot be sold or released for any commercial purposes;

2. Parents have the right to inspect and review the complete contents of their child’s education record;

3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred;
4. A complete list of all student data elements collected by the State is available for public review at http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863, 89 Washington Avenue, New York 12234; and

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to: Dr. Dennis P. O'Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.

If the Hauppauge Union Free School District enters into a third party contract in which the service provider receives student data or teacher or principal data in order to provide a needed service for the District, supplemental information shall be developed and provided to parents that states:

6. The exclusive purposes for which the student data or teacher or principal data will be used;

7. How the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;

8. When the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

9. If and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

10. Where the student data or teacher or principal data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

The CPO as appointed by the Commissioner must secure input from parents and other education and expert stakeholders to develop additional elements for the Parents' Bill of Rights for Data Privacy and Security. The Commissioner of Education will also be promulgating regulations with a comment period for parents and other members of the public to submit comments and suggestions to the CPO.

In the meantime, you can access additional information and a question and answer document issued by SED as a preliminary Parents' Bill of Rights for Data Privacy and Security.

If you have any further questions or concerns at this time, please contact Dr. Dennis P. O'Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Dr. Donald B. Murphy, Assistant Superintendent for Curriculum, Instruction, and Technology, Hauppauge UFSD, at (631) 761-8202.

***************************************************************
This Bill of Rights will be included with every contract entered into by the District with an outside contractor if the contractor will receive student data or teacher or principal data. This Bill of Rights will be supplemented to include information about each contract that the District enters into with an outside contractor receiving confidential student data or teacher or principal data, including the exclusive purpose(s) for which the data will be used, how the contractor will ensure confidentiality and data protection and security requirements, the date of expiration of the contract and what happens to the data upon the expiration of the contract, if and how the accuracy of the data collected can be challenged, where the data will be stored and the security protections that will be taken.

"District Data" means all information obtained by the School from the District or by the School in connection with the services provided by the School pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, "District Data" does not include any information made publicly available by the District, with the exception of Personally Identifiable Information from student and personnel data.

(1) **Use of District Data by School.** The District Data received by the School will be used only to perform the School's obligations pursuant to the Agreement and for no other purpose.

(2) **Storage and Security Protections.** The School will store and process District Data in compliance with Education Law § 2-d(5) and applicable regulations of the Commissioner of Education, if any, as the same may be amended from time to time, and in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure District Data from unauthorized access, disclosure, alteration and use. The School will use legally-required, industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services pursuant to the Agreement. School will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

The following paragraphs describe (in such a manner as to protect data security) the specific storage methods and security protections used by the School to protect District Data:

(a) **Storage of Electronic Data:** All student data are stored on password-protected computers or in locked filing cabinets located in locked rooms.

(b) **Storage of Non-Electronic Data:** A copy of the student's IEP is filed in the student's data notebook stored in a locked classroom closet. IEP reports, etc. are located in Admin. notebooks and locked in file cabinets in locked rooms.

(c) **Personnel/Workforce Security Measures:** All student records are stored on password-protected computers or locked files. Access is restricted to staff working directly with student. Staff required to sign a confidentiality statement.

(d) **Physical Security Measures:** Ascent does not sub-contract with other agencies. Written consents must be signed by parents for release of information to outside agencies. All records are securely held in the school's location ASCENT - 2019-2020 CONTRACT FOR SCHOOL SERVICES - 16 - in Deer Park.
(e) Account Management and Access Control: A list of staff authorized to access student information from Admin Notebooks is located in the Main Office. Authorized staff must sign a notebook out and in with Administrative.

(f) All electronic District Data will be protected by the School through the use of Ass't. encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).

(3) **Sharing Information with Other Persons and Entities.** The School will only share District Data with entities or persons authorized by the Agreement. To the extent that District Data will be shared by the School with other authorized entities or persons not employed by the School, the School will ensure that those persons or entities will be required to agree in writing that they will comply with all terms of the Agreement’s Plan for Security and Protection of Personally Identifiable Information, and any other Agreement provision relating to confidentiality of records and data security and privacy, including, but not limited to this Exhibit A.

(4) **Destruction/Return of Data.** Upon the termination of the Agreement for any reason, the School will, as directed by the District in writing, securely destroy ("securely destroy" means taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means) or return all District Data received by the School as soon as reasonably possible. The District’s decision will be made in connection with all applicable laws, including the New York Arts and Cultural Affairs Law and the Records Retention and Disposition Schedule ED-1. In connection with the secure destruction of any District Data, the School will provide a certificate of destruction (form and substance satisfactory to the District) to the District.

(5) **Challenge to Accuracy of Data.** A parent or guardian, student, teacher or principal can challenge the accuracy of the Data received by the School by following applicable law (e.g., Family Educational Rights and Privacy Act), employment agreements, and policies, rules and regulations. If the School receives a challenge to the accuracy of Data from a parent or guardian, student, teacher or principal, the School will notify the District in writing. The School will not amend any Data without a written request from the District.

**HAUPPAUGE UNION FREE SCHOOL DISTRICT**

By: __________________________
David M. Barshay
President, Board of Education

By: __________________________
Nancy Sharnow, Executive Director

Date: _________________________
Date: 6/20/19
INSTRUCTIONS FOR PARENTS BILL OF RIGHTS

Exhibit A contains information required by New York Education Law § 2-d and includes information that makes up part of the mandated Plan for Protection of Personally Identifiable Information. It should contain detailed information about data storage and security measures. The Service Provider must describe the ways it will store District Data and the specific security protections that will be used by the Service Provider to protect District Data. Please note that these descriptions are part of a publicly accessible document and must be written in a manner that will protect the Service Provider's data security.

Below, we list examples for each storage/security category set forth in Exhibit A. These are only examples and the Service Provider must describe the specific storage methods and security protections it uses (again, the description must be written in a manner that will protect the Service Provider's data security). The amount of information included should not be limited by the space provided.

Examples:

(a) **Storage of Electronic Data:**
   - In the Cloud (specify types, private or public, etc.)
   - On Service Provider’s server

(b) **Storage of Non-Electronic Data:**
   - Files stored in locked filing cabinets

(c) **Personnel/Workforce Security Measures:**
   - Describe internal policies regulating access to information and sharing information amongst coworkers
   - Describe policies relating to the requirement to return all data and property to the Service Provider upon an employee’s separation from employment

(d) **Account Management and Access Control:**
   - Use of unique user-IDS
   - Use of passwords that are regularly and frequently updated
   - Use of automatic techniques to terminate a session upon specific conditions (e.g., idle time)
   - Policy to disable employee accounts upon termination from employment

(e) **Physical Security Measures:**
   - Describe security barriers and access controls (e.g., locking of doors, desks and filing cabinets)
   - Describe visitor policies (e.g., visitors are escorted at all times when visiting information processing and storage facilities
HAUPPAUGE PUBLIC SCHOOLS
Office of the Director of Pupil Personnel Services

TO: Jacqueline Pirro
FROM: Lois Jankeloff
DATE: June 26, 2019
SUBJECT: Contracts 2019-20

Please have the Board of Education sign and approve the following contracts:

Provider: Bayada Home Health Care
Term: 7/1/19 to 6/30/20
Cost: Cost varies according to service
Service: Nursing Services
CONTRACT FOR CONSULTANT SERVICES

AGREEMENT dated as of the 24th day of June, 2019 between the HAUPPAUGE UNION FREE SCHOOL DISTRICT ("the District"), having its administrative offices at 495 Hoffman Lane, Hauppauge, New York, 11788-2836, and BAYADA HOME HEALTH CARE ("the Consultant"), having an office at 700 Veterans Memorial Highway, Ste. 200, Hauppauge, New York 11788.

In consideration of the mutual covenants and conditions contained in this Agreement, the District and the Consultant hereby agree as follows:

1. Retention: The District retains the Consultant and the Consultant agrees to provide the District with the following services ("the Services") and the Consultant makes the representations and warranties hereinafter set forth.

   a. The Consultant will provide a full range of nursing staff services on a temporary basis. The Services include the provision of Registered Nurses and Licensed Practical Nurses. Consultant acknowledges and agrees that it is responsible for ensuring that the Services comply with federal, State, and local statutes, rules and regulations. The Services must be performed in the transport to and from school and at the actual school location.

   b. Consultant will provide the District with skilled nursing services on an as-needed and as-requested basis.

   c. Consultant represents and warrants that it is duly licensed and authorized to perform the Services and that it will provide the District with licensed and qualified individuals. Consultant further represent and warrants that the Services will be performed by individuals that are licensed pursuant to State, federal and local laws, regulations and rules. Upon the District's request, the Consultant agrees to submit to the District proof of certification and/or professional licensing of all individuals providing Services.

   d. The individuals providing Services are subject to the District's approval, and the District reserves the right to reject the placement of any individual.

   e. Consultant must provide the District with proof of all licenses, certifications, registrations and completion of in-service trainings, including, but not limited to, training in CPR, fire & safety, infection control, non-discrimination, HIPAA, and confidentiality of HIV and AIDS related information pursuant to 10 NYCRR 63.9, for each nurse providing Services.

   f. Consultant must ensure that each nurse providing Services has completed a Skills Check List, including the submittal of nursing license/certificate for verification (ASI), a resume reflecting at least three (3) professional references that have been thoroughly checked by Consultant prior to providing any services to the District. The Consultant represents that each nurse that it sends to the District has taken and passed the Accredited NLN Nursing Exam, carries current malpractice insurance and BCLS/CPR certification, submitted a completed Employment Eligibility Verification (Form I-9) and is otherwise eligible to work at the District's schools.

   g. Consultant agrees to obtain and submit to the District a satisfactory Health Status Report including, but not limited to, vaccines titers for chicken pox, measles, mumps, rubella, and varicella and PPD testing/chest x-ray with appropriate follow-up.

BAYADA - 2019-2020 CONTRACT FOR CONSULTANT SERVICES (2)
h. Consultant must ensure that all personnel providing Services for the District comply with all Personnel/Health Requirements pursuant to 10 NYCRR 415.26.

i. Upon written notice to the Consultant by the District, Consultant must make personnel available to the District at times mutually agreed to by the parties for purposes of internal peer reviews, external audit systems, and grievance procedures.

j. The Consultant further agrees to complete and submit, upon the request of the District, all forms to document the Services provided to Medicaid eligible school aged-students, for Medicaid reimbursement purposes. Consultant represents and warrants it has never been excluded from Medicare, Medicaid, or any health care benefit program funded by the Federal government. Consultant represents and warrants, as a material term of this Agreement, that neither it nor any of its employees is/are:

i. Currently excluded from or otherwise ineligible to participate in any federal or State health care program, including those defined in 42 U.S.C. § 1320 a-7b(f);

ii. The subject of any pending exclusion proceeding; or

iii. The subject of an adjudication or determination that it/they have committed any action that could subject the Consultant to exclusion from governmental programs (collectively, "exclusion activity").

Additionally, the Consultant agrees that, as a continuing obligation of this Agreement, the Consultant will:

i. Maintain documentation evidencing monthly exclusion checks, and will produce the documentation to the District upon its request; and

ii. Report in writing to the District any exclusion activity involving the Consultant as soon as practicable after the Consultant learns of the exclusion activity.

k. Consultant will obtain whatever releases or other legal documents that are necessary for the Consultant to render full and complete reports concerning the progress of the pupil(s) covered by this Agreement.

l. Consultant hereby agrees to furnish to the State all reports, audits, and other documentation or information required to make determinations as to eligibility pursuant to State or federal laws, regulations or rules. Those materials must be furnished at all times required by the State. Failure to submit required materials within ten (10) days of demand or as required by law will constitute a material breach of this Agreement. The Consultant agrees to provide the State access to all relevant records which the State requires to determine the Consultant’s or the District’s compliance with applicable State or federal laws, regulations or rules. The Consultant agrees to retain all materials and records relevant to the execution or performance of the Agreement in accordance with the requirements of applicable law, but in no event less than six (6) years from the date of this Agreement.

m. Consultant must furnish each individual providing Services with a photo identification badge to be worn at all times while the individual is providing Services.
2. **Compensation:** The District will compensate the Consultant at the following rates:
   
a. Registered Nurses $57.00 per hour.
b. Licensed Practical Nurses $47.00 per hour.

The District will compensate the Consultant for a minimum of two hours per bus run.

On days when a student does not attend school due to illness or any other reason, Services will not be required by the District for that student and the District will not be responsible for payment of fees associated with those Services.

The Consultant must submit monthly invoices in form and substance satisfactory to the District for the Consultant’s Services. The District will pay the Consultant within 60 calendar days of its receipt, review and approval of the invoice.

3. **Term:** This Agreement is for Services provided from July 1, 2019 to June 30, 2020, unless this Agreement is terminated earlier as herein provided. The Consultant acknowledges that the District is under no obligation to renew this Agreement upon its expiration.

4. **Independent Contractor:** The Consultant is retained by the District only for the purposes and to the extent set forth in this Agreement. The Consultant’s relation to the District is solely that of an independent contractor during the period of the Consultant’s retention and delivery of Services hereunder.

   If the Consultant is a corporation, partnership or LLC, neither the Consultant nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker’s Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance or malpractice insurance. With regard to employees of the Consultant, the Consultant alone is responsible for their work, personal conduct, direction, compensation, and for payment of all employment, income and other taxes in relation thereto.

   If the Consultant is an individual, the compensation being paid pursuant to this Agreement will not be subject to withholding taxes or other employment taxes required with respect to compensation paid by the District to an employee. The District, if required by Federal or State requirements, will submit a Form 1099 and IT 2102.1, respectively, at year-end to the Federal government and State government and to each individual Consultant having a gross income exceeding $600. The Consultant will not be eligible for employee benefits or contributions thereto from the District relative to this Agreement including, but not limited to, social security, New York State Worker’s Compensation, unemployment insurance, New York State Retirement System benefits, health or dental insurance, or malpractice insurance. The Consultant alone is responsible for his or her work, personal conduct, direction and for payment of all employment, income and other taxes in relation thereto.

5. **Indemnification:** To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from
any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the Consultant’s negligence or the action of, or the failure to act by the Consultant, the Consultant’s representatives or employees, or anyone for whose acts the Consultant may be liable. Nothing herein will be interpreted as obligating Consultant to indemnify the District for the District’s negligence.

In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from the Consultant pursuant to the provisions of this Paragraph 5, the District will promptly notify the Consultant of the suit, claim or demand, and give the Consultant an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the Consultant in connection with the defense, which will be at the expense of the Consultant. In the event that the Consultant fails to defend the same within 30 calendar days of receipt of the notice, the District will be entitled to assume the defense thereof, and the Consultant will be liable to repay the District for all its expenses reasonably incurred in connection with the defense (including reasonable attorney’s fees, disbursements, export witness fees and settlement payments). The failure of the District to notify the Consultant of a legal proceeding, claim or demand will not relieve the Consultant of any obligation that the Consultant has pursuant to this Paragraph 5 unless and only to the extent that the failure to notify the Consultant materially prejudices the Consultant.

The Consultant agrees not to enter into any waiver, release or settlement of any legal proceeding, claim or demand for which indemnification may be sought hereunder without the prior written consent of the District (which consent will not be unreasonably withheld).

To the fullest extent permitted by law, the District indemnifies and will defend and hold harmless the Consultant, its employees, agents, and representatives from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the District’s negligence, or the action of, or the failure to act by the District, the District’s representatives or employees, or anyone for whose acts the District may be liable. Nothing herein will be interpreted as obligating the District to indemnify the Consultant for the Consultant’s negligence.

All of the provisions of this Paragraph 5 will survive the expiration or sooner termination of this Agreement.

6. **Expenses:** The Consultant will pay all expenses incurred in connection with the performance of the Consultant’s duties hereunder including, but not limited to, automobile and/or travel expenses.

7. **Required Records:** The Consultant will provide services and maintain records, logs and reports in accordance with all applicable laws, regulations and requirements of the New York State Education Department, the New York State Department of Labor and District policies and procedures in force during the term of this Agreement. All student records and logs will be the property of the District. The Consultant must provide the District with a copy of any reports, tests, evaluations or observations that are prepared in connection with the Services provided by the Consultant pursuant to this Agreement.

8. **Review of Records:** The District will have the right to examine any or all records or accounts maintained by the Consultant in connection with this Agreement.

9. **District’s Policies/Authority:** The Consultant certifies that it has reviewed and is familiar
with the policies, rules and regulations of the District including, but not limited to, the District’s anti-
harassment and anti-discrimination policies and regulations and the District’s Code of Conduct
(collectively, “the Policies”). The Consultant will ensure that its employees, representatives, agents and
subcontractors and any other person providing services or present on District property pursuant to this
Agreement (collectively, “Consultant’s Service Providers”) review and become familiar with the Policies.
Copies of the Policies are available at http://www.hauppauge.k12.ny.us/domain/602. The Consultant
agrees that it will comply with the Policies and will cause Consultant’s Service Providers to do the same.

THE CONSULTANT HEREBY CONFIRMS THAT IT HAS IMPLEMENTED A
WRITTEN ANTI-SEXUAL HARASSMENT POLICY THAT MEETS OR EXCEEDS THE
REQUIREMENTS OF NEW YORK LABOR LAW SECTION 201-G AND THAT ANNUAL
TRAINING REGARDING THIS POLICY IS AND WILL BE PROVIDED TO ALL OF ITS
EMPLOYEES CONSISTENT WITH LAW.

Any allegation that the Consultant or one of Consultant’s Service Providers has been subjected to
harassment or discrimination while providing services or while present on District property pursuant to
this Agreement must be reported immediately to the Assistant Superintendent for Personnel &
Administration (or to the Superintendent if the Assistant Superintendent for Personnel & Administration is
the subject of the allegation or concern). The Consultant confirms that it has notified the Consultant’s
Service Providers of this requirement.

The Consultant will carry out the orders, directions and policies conveyed by the District from
time to time either orally or in writing, provided, however, that the Consultant will determine the manner
of carrying out the Consultant’s professional duties hereunder consistent with the Consultant’s status as an
independent contractor.

10. Insurance: The Consultant will obtain and keep in full force and effect during the term
of this Agreement, at the Consultant’s sole cost and expense, the following insurance:

a. Commercial General Liability Insurance

$1,000,000 per occurrence/$3,000,000 aggregate (must include coverage for
sexual misconduct).

b. Workers’ Compensation and N.Y.S. Disability

Statutory Workers’ Compensation, Employers’ Liability and N.Y.S. Disability
Benefits Insurance for all employees. Proof of coverage must be on the
approved specific form, as required by the New York State Workers’
Compensation Board. ACORD certificates are not acceptable.

A self-employed person and certain partners and corporate officers are excluded
from the definition of “employee” pursuant to Workers’ Compensation Law
Section 2(4). As such, individuals in such capacity are excluded from Workers’
Compensation Law coverage requirements. A person seeking an exemption
must file a CE-200 form with the State. The form may be completed and
submitted directly online to the Workers Compensation Board:
http://www.wcb.ny.gov/content/cbiz/wc_db_exemptions/requestExemptionOver
view.jsp
e. **Professional Errors and Omissions Insurance**

$1,000,000 per occurrence/ $3,000,000 aggregate for the professional acts of the Consultant performed under this Agreement for the District. If written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement. Coverage must remain in effect for two calendar years following the completion of work.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Consultant hereby agrees to effectuate the naming of the District as an additional insured on the Consultant’s Commercial General Liability Insurance policy(ies). Each policy naming the District as an additional insured must:

- be an insurance policy from an A.M. Best rated “secure” or better insurer, licensed in New York State; and

The District must be listed as an additional insured by using endorsement CG 2026 or its equivalent. The decision to accept an alternative rests solely with the District. A completed copy of the endorsement or its alternative must be attached to the certificate of insurance and the certificate must state that the endorsement is being used. The certificate of insurance must describe the specific services provided by the Consultant that are covered by the commercial general liability policy and the umbrella policy. At the District’s request, the Consultant will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Consultant will provide a copy of the policy endorsements and forms.

The Consultant hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Consultant, to the extent not covered by the applicable policy.

If a policy is written on a “claims-made” basis, the retroactive date must pre-date the inception of this Agreement.

The Consultant acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The Consultant must provide the District with proof satisfactory to the District that the above requirements have been met, prior to the commencement of work or use of District facilities. The failure of the District to object to the contents of the certificate or the absence of same will not be deemed a waiver of any and all rights held by the District. Upon request, the Consultant will provide the District with a copy of the Consultant’s applicable insurance policies including any endorsements, modifications, or exclusions thereto.

The District is a member/owner of the New York Schools Insurance Reciprocal (“NYSIR”). The Consultant acknowledges that the procurement of that insurance as required herein is intended to benefit not only the District, but also NYSIR as the District’s insurer.

The District, in its sole discretion, may waive one or more of the requirements set forth in this paragraph. A waiver must be in writing and signed by an authorized representative of the District.

11. **Safeguarding Information:** Neither the Consultant nor the District will use or disclose any information concerning the Services pursuant to this Agreement for any purpose which is prohibited by
Federal and State statutes and/or regulations.

12. **Termination:**

A. This Agreement may be terminated by the District “for cause” upon the occurrence of any of the following events:

   (1) Immediately upon the District delivering written notice to the Consultant of a breach by the Consultant of any of the policies, rules and regulations of the District relating to the health or safety of students or District employees;

   (2) Immediately upon the Consultant’s breach of the Consultant’s obligations to provide the insurance coverage set forth in Paragraph 10;

   (3) Immediately upon the Consultant’s breach of any of the Consultant’s obligations pursuant to, or violation of, any applicable State or federal law or regulation; or

   (4) Fifteen calendar days after the Consultant has received written notice from the District that the Consultant has breached any of the Consultant’s other obligations hereunder unless, within the 15 calendar day period, the Consultant cures the breach to the District’s satisfaction.

   (5) Upon termination of this Agreement “for cause,” the Consultant is not entitled to any further payments hereunder.

B. This Agreement is automatically terminated upon the Consultant’s filing of a voluntary petition in bankruptcy or making an assignment for the benefit of creditors, or upon other action taken or suffered, voluntarily or involuntarily, pursuant to any federal or state law for the benefit of insolvents, and upon the filing of an involuntary petition in bankruptcy against the Consultant which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph 12(B), the Consultant is not entitled to any further payments hereunder.

C. This Agreement may be terminated, at any time, by either party for convenience upon 30 calendar days’ written notice to the other party. Upon termination of this Agreement for convenience, the Consultant is entitled to receive all sums due, accrued and unpaid as of the date of termination.

D. This Agreement may be terminated by the Consultant for cause 15 calendar days after the District has received written notice from the Consultant that the District has breached its payment obligations hereunder unless, within the 15 calendar day period, the District cures the breach by payment.

E. In the event of termination for any reason, all reports and Services due to the District must be completed by the Consultant and delivered to the District within 30 calendar days of the termination date.

13. **Signing of Acknowledgement:** The Consultant agrees to complete and sign an Acknowledgement Form with regard to the New York State Education Department Waiver for the New York State Public Retirement System with respect to each owner of the Consultant and each principal employee of the Consultant. A schedule of such persons is attached as Exhibit A.
14. **Notices:** Any notices required or permitted to be given pursuant to the terms of this Agreement must be in writing and either personally delivered or sent by nationally recognized overnight carrier to the parties at the following addresses:

**To the Consultant:**

BAYADA HOME HEALTH CARE  
700 Veterans Memorial Highway,  
Ste. 200  
Hauppauge, New York 11788

**To the District:**

Hauppauge Union Free School District  
495 Hoffman Lane  
Hauppauge, NY 11788-2836  
Attention: Assistant Superintendent for Business and Operations

**With a copy to:**

Lamb & Barnosky, LLP  
534 Broadhollow Road, Suite 210  
P.O. Box 9034  
Melville, New York 11747  
Attention: Eugene R. Barnosky, Esq.

If the notice is sent by personal mail, it will be deemed delivered upon receipt and if sent by registered or certified mail, it will be deemed delivered 3 days after so mailing.

15. **Entire Agreement:** This Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, by and between the parties.

16. **Modification:** This Agreement may not be changed orally, but only by an agreement in writing signed by the parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or provision of this Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.

17. **Governing Law, Choice of Forum and Waiver of Jury Trial:** This Agreement is subject to, governed by, enforced according to and construed according to the laws of the State of New York, without regard to the conflicts of laws provisions thereof. Any dispute arising under this Agreement will be litigated in a New York State Court in Suffolk County, New York. The parties each waive trial by jury in any action concerning this Agreement.

18. **No Assignment:** In accordance with the provisions of General Municipal Law § 109, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of the Consultant's rights, title, or interest in this Agreement, or the Consultant's power to execute this Agreement to any other person or corporation without the previous consent in writing from the District.

19. **Third-Party Beneficiaries:** There are no third-party beneficiaries of or in this Agreement, other than NYSIR.

20. **Negotiated Agreement:** This is a negotiated Agreement. It will not be construed against
any party by reason of this Agreement being prepared by that party’s attorney. Each party warrants that it/he/she has full power to execute, deliver and perform this Agreement and has taken all actions required by law, organizational documents or otherwise to authorize the execution and delivery of this Agreement.

21. **Iran Divestment Act of 2012**: By signing this Agreement, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its/his/her own organization, under penalty of perjury, that to the best of its/his/her knowledge and belief that each person is not on the list created pursuant New York State Finance Law § 165-a(3)(b).

22. **Plan for Security and Protection of Personally Identifiable Information:**

A. “District Data” means all information obtained by the Consultant from the District or by the Consultant in connection with the Services provided by the Consultant pursuant to this Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District, with the exception of PII from student and personnel data.

B. “Personally Identifiable Information” or “PII” includes, but is not limited to: (i) a person’s name or address or the names or addresses of a student’s parents or other family members; (ii) any personal identifier (e.g., SSN, student number or biometric record); (iii) indirect identifiers (e.g., date of birth, place of birth, or mother’s maiden name); (iv) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or Consultant reasonably believes knows the identity of the person to whom a record relates.

C. The Consultant represents and warrants that it will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of District Data.

D. The Consultant represents and warrants that District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to this Agreement and for no other purpose.

E. The Consultant represents and warrants that it will only collect data from the District or District employees or other End Users (the term “End Users” means the individuals authorized by the District to access and use services provided by the Consultant pursuant to this Agreement) that is necessary to fulfill the Consultant’s duties pursuant to this Agreement.

F. The Parties agree that all rights including all intellectual property rights in and to District Data will remain the exclusive property of the District and that the Consultant has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

G. The Consultant agrees not to sell District Data and agrees not to use any District Data to advertise or market to District employees or other End Users or use or allow any other person or entity to use District Data for any commercial or marketing purpose, other than to perform the Consultant’s obligations pursuant to this Agreement. “Commercial or marketing purpose” means the
sale of District Data or its use or disclosure, whether directly or indirectly, to derive a profit for advertising purposes or to develop, improve or market products or services.

H. The Consultant agrees that, upon receipt of District Data, it will: (i) limit the Consultant’s internal access to District Data to employees with legitimate educational interests (i.e., access will be limited to those employees who must access District Data to implement the terms of this Agreement); (ii) use District Data only for the purposes explicitly authorized by this Agreement; (iii) not disclose any PII from District Data to any other party (a party other than an employee with a legitimate educational interest) without the District’s prior written consent (if necessary, the District will obtain the required consent(s) from third parties), unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order); (iv) maintain reasonable safeguards to maintain confidentiality of PII in District Data and adopt technologies, safeguards and practices that align with the required version of the National Institute for Standards and Technology Framework for Improving Critical Infrastructure and any other legally required cybersecurity frameworks or standards; (v) use legally mandated encryption technology to protect District Data from unauthorized disclosure; and (vi) store all District Data within the United States of America.

I. If the Consultant has access to District Data that is subject to the Family Educational Rights and Privacy Act ("FERPA"), the Consultant acknowledges that for purposes of this Agreement it will be designated as a "school official" with a "legitimate educational interest" pursuant to FERPA and its implementing regulations, and the Consultant agrees to abide by the limitations and requirements imposed on school officials.

J. The Consultant represents and warrants that it will comply with the District’s Parents’ Bill of Rights, as supplemented, to include information about this Agreement, a copy of which is annexed hereto as Exhibit B and is signed by the Parties.

K. The Consultant represents and warrants that it has provided or, within 30 calendar days of the date of this Agreement and prior to allowing any of its employees access to District Data, will provide training, about the State and federal laws and regulations governing confidentiality of District Data to any employee who has access to District Data.

L. Except as prohibited by law, the Consultant will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by Consultant seeking District Data; (ii) consult with the District regarding its response; (iii) cooperate with the District’s reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and (iv) upon the District’s request, provide the District with a copy of Consultant’s response.

M. Upon the District’s request, the Consultant agrees that it will promptly make any District Data held by the Consultant available to the District.

N. A breach is any unauthorized access, use or disclosure of District Data. The Consultant agrees to notify the District of any breach. This notification will be made in the most expedient way possible and without delay. The Consultant must also notify the District in writing of the breach. This written notification must be sent by the Consultant within one calendar day of the breach and must be sent to the District by email to the Deputy Superintendent and either personally delivered or sent by nationally recognized overnight carrier to the District. In the event of a breach
attributed to the Consultant or the Consultant’s assignees or subcontractors, the Consultant must reimburse the District for all the District’s costs associated with the District’s obligation to notify the State’s chief privacy officer, parents, students, teachers and/or principals of the breach.

O. The parties agree to execute an amendment to this Agreement if required for compliance with any new laws or regulations relating to the confidentiality, security and privacy of data.

P. To the fullest extent permitted by law, the Consultant indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney’s fees and disbursements) arising from the District’s notification obligations set forth above in Subparagraph N.

Q. All the provisions of this Paragraph 22 will survive the expiration or sooner termination of this Agreement.

23. **Fingerprinting:** The Consultant will be responsible for compliance with the requirements of all applicable laws, rules and regulations, including, but not limited to Project Save and the Safe Schools Act with respect to any person providing Services involving direct contact with District students. All persons providing Services involving direct contact with District students must receive fingerprinting clearance prior to providing the Services. Written proof of clearance of each person (in form and substance satisfactory to the District) will be provided to the District prior to the provision of Services. The Consultant will inform the District, in writing, within one business day of the Consultant’s receipt of a notice of subsequent arrest (or any other notice related to fingerprinting) for any person providing Services. If any of the Consultant’s employees who are assigned to provide Services do not have the appropriate fingerprinting clearance, the Consultant must give the District the information necessary to process and obtain fingerprint clearance and reimburse the District for the cost to the District of obtaining the clearance. The District will deduct the cost of the fingerprinting clearance from the next payment due to the Consultant. If any person providing Services leaves the employment of the Consultant for any reason, the Consultant must notify the District, in writing, within one calendar week of the end of the person’s employment. If the District has not received sufficient proof of fingerprinting clearance for any person providing Services, the District will deduct the cost of the Services provided by the person from the next payment due to the Consultant. Consultant agrees that Consultant will perform or cause a third party to perform a background check of all individuals providing Services. Consultant further agrees to confirm that all individuals providing Services for which a license is required by the State and for which fingerprinting is required to obtain that license, have in fact been fingerprinted in connection with the issuance of that license.

24. **No End User Agreements:** In the event that the Consultant enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the Agreement will apply.

25. **Execution:** The Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement. The Agreement may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the latter date that appears below.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ________________________________  
David M. Barshay  
President, Board of Education

Date: ________________________________

BAYADA HOME HEALTH CARE

By: ________________________________  
Carla Martinoff  
Title: Director

Date: June 24, 2019
EXHIBIT A
ACKNOWLEDGMENT WITH REGARD TO THE NEW YORK STATE EDUCATION DEPARTMENT WAIVER

Complete one of the following paragraphs:

1. I, [Full Name], verify that I am not a retired member of any New York State Public Retirement System, and therefore do not require a waiver from the New York State Education Department to perform the duties for which I have contracted.

   [Signature]  
   [Date]

2. I, [Full Name], verify that I am a retired member of a New York State Public Retirement System but all collective earnings from any public employment in New York State will not and does not exceed the current earnings limitation. Therefore, I do not require a waiver from the New York State Education Department to perform the duties for which I have contracted.

   [Signature]  
   [Date]

3. I, [Full Name], verify that I am a retired member of a New York State Public Retirement System and I expect that my collective earnings from any public employment in New York State will exceed the current earnings limitation. Therefore, I require a waiver from the New York State Education Department and I request that [School District Name] file a request for the waiver on my behalf.

   [Signature]  
   [Date]

4. I, [Full Name], verify that I am a retired member of any New York State Public Retirement System, but I do not require a waiver from the New York State Education Department to perform the duties for which I have contracted because I am at least 65 years old.

   [Signature]  
   [Date]
EXHIBIT B

AGREEMENT BETWEEN BAYADA HOME HEALTH CARE ("the Consultant") and the DISTRICT

TERM: JULY 1, 2019 to JUNE 30, 2020

HAUPPAUGE UNION FREE SCHOOL DISTRICT'S PARENTS' BILL OF RIGHTS REGARDING DATA PRIVACY AND SECURITY

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HAUPPAUGE UNION FREE SCHOOL DISTRICT

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY–

Summary of Rights and Information for Parents and Students

The legislature and governor passed a group of bills that addressed the Regents Education Reform Agenda. These bills are known collectively as the "Common Core Implementation Reform Act." One of the key components of this act (Chapter 56, Part AA, Subpart L, of the laws of 2014) directs the Commissioner of Education to appoint a Chief Privacy Officer (CPO). A major function of this new position is to work with school districts and parents to develop elements for a parents’ bill of rights to help ensure that student data is private and secure. The State Education Department (SED) and the CPO must also recommend regulations to establish standards for data security and privacy policies that will be implemented statewide.

SED has issued a preliminary Parents' Bill of Rights for Data Privacy and Security. The Hauppauge Union Free School District is issuing this summary of parents' rights under the new law. While some additional elements will be developed in conjunction with the CPO, districts, parents and the Board of Regents, this summary sets forth the key rights and information that parents should be aware of in regards to ensuring the privacy and security of their student’s educational data.

The Hauppauge Union Free School District is committed to ensuring student privacy and recognizes that parents, legal guardians, and persons with a parental relationship to a student are entitled to certain rights with regard to their child’s personally identifiable information, as defined by Education Law §2-d. To this end, the District is providing the following Parent's Bill of Rights for Data Privacy and Security:

1. A student's personally identifiable information cannot be sold or released for any commercial purposes;

2. Parents have the right to inspect and review the complete contents of their child's education record;

3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred;

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4. A complete list of all student data elements collected by the State is available for public review at http://www.p12.nysed.gov/irs/sis/documentation/NYSEDSStudentData.xlsx or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863, 89 Washington Avenue, New York 12234; and

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to: Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.

If the Hauppauge Union Free School District enters into a third party contract in which the service provider receives student data or teacher or principal data in order to provide a needed service for the District, supplemental information shall be developed and provided to parents that states:

6. The exclusive purposes for which the student data or teacher or principal data will be used;

7. How the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share student data or teacher or principal data with, if any, will abide by data protection and security requirements;

8. When the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

9. If and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

10. Where the student data or teacher or principal data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

The CPO as appointed by the Commissioner must secure input from parents and other education and expert stakeholders to develop additional elements for the Parents’ Bill of Rights for Data Privacy and Security. The Commissioner of Education will also be promulgating regulations with a comment period for parents and other members of the public to submit comments and suggestions to the CPO.

In the meantime, you can access additional information and a question and answer document issued by SED as a preliminary Parents’ Bill of Rights for Data Privacy and Security.

If you have any further questions or concerns at this time, please contact Dr. Dennis P. O’Hara, Superintendent, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788 or Dr. Donald B. Murphy, Assistant Superintendent for Curriculum, Instruction, and Technology, Hauppauge UFSD, at (631) 761-8202.

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This Bill of Rights will be included with every contract entered into by the District with an outside contractor if the contractor will receive student data or teacher or principal data. This Bill of Rights will be supplemented to include information about each contract that the District enters into with an outside contractor receiving confidential student data or teacher or principal data, including the exclusive purpose(s) for which the data will be used, how the contractor will ensure confidentiality and data protection and security requirements, the date of expiration of the contract and what happens to the data upon the expiration of the contract, if and how the accuracy of the data collected can be challenged, where the data will be stored and the security protections that will be taken.

“District Data” means all information obtained by the Consultant from the District or by the Consultant in connection with the services provided by Consultant pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District, with the exception of Personally Identifiable Information from student and personnel data.

(1) **Use of District Data by Consultant.** The District Data received by the Consultant will be used only to perform Consultant’s obligations pursuant to the Agreement and for no other purpose.

(2) **Storage and Security Protections.** The Consultant will store and process District Data in compliance with Education Law § 2-d(5) and applicable regulations of the Commissioner of Education, if any, as the same may be amended from time to time, and in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure District Data from unauthorized access, disclosure, alteration and use. The Consultant will use legally-required, industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services pursuant to the Agreement. Consultant will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

The following paragraphs describe (in such a manner as to protect data security) the specific storage methods and security protections used by the Consultant to protect District Data:

(a) Storage of Electronic Data: in our server.

(b) Storage of Non-Electronic Data: files stored in locked cabinet.

(c) Personnel/Workforce Security Measures: separate employees are required to return all property to District.

(d) Physical Security Measures: office files are never locked.
(e) Account Management and Access Control:

unique user IDs and passwords for documenting

(f) All electronic District Data will be protected by the Consultant through the use of encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).

(3) Sharing Information with Other Persons and Entities. The Consultant will only share District Data with entities or persons authorized by the Agreement. To the extent that District Data will be shared by the Consultant with other authorized entities or persons not employed by Consultant, the Consultant will ensure that those persons or entities will be required to agree in writing that they will comply with all terms of the Agreement's Plan for Security and Protection of Personally Identifiable Information, and any other Agreement provision relating to confidentiality of records and data security and privacy, including, but not limited to this Exhibit B.

(4) Destruction/Return of Data. Upon the termination of the Agreement for any reason, the Consultant will, as directed by the District in writing, securely destroy ("securely destroy" means taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means) or return all District Data received by the Consultant as soon as reasonably possible. The District's decision will be made in connection with all applicable laws, including the New York Arts and Cultural Affairs Law and the Records Retention and Disposition Schedule ED-1. In connection with the secure destruction of any District Data, the Consultant will provide a certificate of destruction (form and substance satisfactory to the District) to the District.

(5) Challenge to Accuracy of Data. A parent or guardian, student, teacher or principal can challenge the accuracy of the Data received by the Consultant by following applicable law (e.g., Family Educational Rights and Privacy Act), employment agreements, and policies, rules and regulations. If the Consultant receives a challenge to the accuracy of Data from a parent or guardian, student, teacher or principal, the Consultant will notify the District in writing. The Consultant will not amend any Data without a written request from the District.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: ____________________________
David M. Barshay
President, Board of Education

Date: ____________________________

BAYADA HOME HEALTH CARE

By: ____________________________
Carla Martinoff
Title: Director

Date: June 24, 2019
INSTRUCTIONS FOR PARENTS BILL OF RIGHTS

Exhibit B contains information required by New York Education Law § 2-d and includes information that makes up part of the mandated Plan for Protection of Personally Identifiable Information. It should contain detailed information about data storage and security measures. The Service Provider must describe the ways it will store District Data and the specific security protections that will be used by the Service Provider to protect District Data. Please note that these descriptions are part of a publicly accessible document and must be written in a manner that will protect the Service Provider’s data security.

Below, we list examples for each storage/security category set forth in Exhibit B. These are only examples and the Service Provider must describe the specific storage methods and security protections it uses (again, the description must be written in a manner that will protect the Service Provider’s data security). The amount of information included should not be limited by the space provided.

Examples:

(a) **Storage of Electronic Data:**
   - In the Cloud (specify types, private or public, etc.)
   - On Service Provider’s server

(b) **Storage of Non-Electronic Data:**
   - Files stored in locked filing cabinets

(c) **Personnel/Workforce Security Measures:**
   - Describe internal policies regulating access to information and sharing information amongst coworkers
   - Describe policies relating to the requirement to return all data and property to the Service Provider upon an employee’s separation from employment

(d) **Account Management and Access Control:**
   - Use of unique user-IDS
   - Use of passwords that are regularly and frequently updated
   - Use of automatic techniques to terminate a session upon specific conditions (e.g., idle time)
   - Policy to disable employee accounts upon termination from employment

(e) **Physical Security Measures:**
   - Describe security barriers and access controls (e.g., locking of doors, desks and filing cabinets)
   - Describe visitor policies (e.g., visitors are escorted at all times when visiting information processing and storage facilities
HAUPPAUGE PUBLIC SCHOOLS
Office of the Director of PPS and Support Services

TO: Board of Education
FROM: Lois Jankeloff
DATE: June 19, 2019
SUBJECT: Health Services Contracts
          2018-19 School Year

Attached please find the following Health Services Contracts:

Provider: Northport-East Northport UFSD

Term: 9/1/18 to 6/30/19

Cost: $961.76 per eligible child

Service: This contract is for health services provided to our district children attending parochial schools within this district’s boundaries. We are requesting the Board sign these contracts.
HEALTH AND WELFARE SERVICE AGREEMENT

THIS AGREEMENT is made this __ day of __________, 2019 by and between the BOARD OF EDUCATION, Northport-East Northport Union Free School District (hereinafter referred to as the "SCHOOL DISTRICT PROVIDING SERVICES"), as the party of the first part having its principal place of business at 158 Laurel Avenue, Northport, NY 11768, and the BOARD OF EDUCATION OF THE Hauppauge Union Free School District (hereinafter referred to as the "SCHOOL DISTRICT RECEIVING SERVICES") as the party of the second part, having its principal place of business at 495 Hoffman Lane, Hauppauge, NY 11788.

WITNESSETH

WHEREAS, the School Districts who are the parties to this Agreement are duly empowered by Section 912 of the Education Law to enter into a contract for the Purpose of providing and/or receiving health and welfare services;

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

1. DEFINITIONS: For the purpose of this Agreement,
   a. "SCHOOL DISTRICT PROVIDING SERVICES" shall mean the District in which the nonpublic school which has requested health and welfare service is located.
   
   b. "SCHOOL DISTRICT RECEIVING SERVICES" shall mean the School District that is contracting for health and welfare services for its resident students who attend a nonpublic school located within the SCHOOL DISTRICT PROVIDING SERVICES.

2. This Agreement shall take effect July 2018, for the period of September 1, 2018 through June 30, 2019, and terminate on June 30, 2019, unless terminated earlier in accordance with the terms set forth herein.

3. If requested by a nonpublic school located within the SCHOOL DISTRICT PROVIDING SERVICES, such School District shall provide health and welfare services to the pupils who attend such nonpublic school equivalent to the health and welfare services that it provides to the public school pupils enrolled in the SCHOOL DISTRICT PROVIDING SERVICES. Such services shall consist of, but not limited to the following:

   a. Nurse Services
   b. Physician/ dental services
   c. School Speech Correction Services*
   d. School Psychological Services*
   e. School Social Work Services
   f. Examinations for Participants in Athletics
g. Notification of Parents Regarding Defect and Follow-Up
h. Vision and Hearing Test
i. First Aid Supplies and Health Record Forms
j. Provision of Medical Equipment such as Audiometers
and Mechanical Vision Testers Required by School Nurse/Physician

The services set forth above may be rendered on nonpublic school premises except for school psychological and speech correction services as further described below.

* School psychological and speech correction services may be rendered on nonpublic school premises only to the extent that such services are diagnostic in nature. To the extent that such services are therapeutic or remedial in nature, they may be rendered to a student attending a nonpublic school only on a religiously neutral site. A religiously neutral site may be, but is not limited to, a public school, a mobile unit or some other public location.

In addition to the requested services described above, the SCHOOL DISTRICT PROVIDING SERVICES shall provide the following health and welfare services without the requirement that the nonpublic school request such services: (1) immunization mandates set forth in sections 2164 and 2165 of the New York State Public Health Law and 10 NYCRR Sections 66-1 and 66-2; and (2) vision screening services to all new admissions within six (6) months of enrollment pursuant to Section 905(4) of the Education Law.

The SCHOOL DISTRICT PROVIDING SERVICES shall make its personnel available to the SCHOOL DISTRICT RECEIVING SERVICES for participation in District Child Study, 504 Team and Committee on Special Education meetings, as appropriate. The SCHOOL DISTRICT RECEIVING SERVICES shall notify the SCHOOL DISTRICT PROVIDING SERVICES of the need for its presence at these meetings within reasonable time prior to the date of the meeting. Copies of all reports, testing and observation reports prepared in connection with this Agreement shall be furnished to the SCHOOL DISTRICT RECEIVING SERVICES upon request.

It is expressly understood and agreed between the parties that (1) the SCHOOL DISTRICT PROVIDING SERVICES may not provide such services to pupils attending nonpublic schools that are not available to the public school students enrolled in the SCHOOL DISTRICT PROVIDING SERVICES; and (2) the services to be provided pursuant to this Agreement shall not include any teaching services.

4: The SCHOOL DISTRICT PROVIDING SERVICES warrants that such health care services (1) will be provided by licensed health and welfare providers; (2) shall be performed by health care providers that are licensed under the law of the State of New York, inclusive of New York State Department of Health and State Education Department Licensing requirements, if applicable; and (3) will be in accord with all pertinent provisions of Federal, State, and local statutes, rules and regulations, including, Section 912 of the Education Law, and the student’s Individualized Education Plan (“IEP”) if applicable. The SCHOOL DISTRICT PROVIDING SERVICES shall certify that all health care providers possess
documentation evidencing such license qualifications as required by Federal, State, or local statutes, rules, regulations and orders.

5. The SCHOOL DISTRICT PROVIDING SERVICES understands and agrees that it will comply and is responsible for complying with all applicable Federal, State and local statutes, rules and ordinances, with respect to the services herein described.

6. In full consideration for the services to be rendered by the SCHOOL DISTRICT PROVIDING SERVICES to the SCHOOL DISTRICT RECEIVING SERVICES for the period of this Agreement, upon presentation of an invoice by the SCHOOL DISTRICT PROVIDING SERVICES evidencing the allocation of such cost in accordance with the terms set forth herein, the SCHOOL DISTRICT RECEIVING SERVICES will pay the SCHOOL DISTRICT PROVIDING SERVICES at the rate of $961.76 per student for the period of September 1, 2018 through June 30, 2019.

7. The SCHOOL DISTRICT PROVIDING SERVICES shall immediately notify the SCHOOL DISTRICT RECEIVING SERVICES if a student is no longer receiving the services described herein. Upon such notification, payment for students removed shall be pro-rated for the period of time services were provided to the student.

8. The SCHOOL DISTRICT RECEIVING SERVICES shall obtain whatever releases or other legal documents that are necessary in order that the SCHOOL DISTRICT PROVIDING SERVICES may render full and complete performance of the obligations set forth in this Agreement. It is understood and agreed by the parties to this Agreement that the full responsibility for obtaining such clearances rests on the SCHOOL DISTRICT RECEIVING SERVICES.

9. Both parties to this Agreement agree to provide the State access to all relevant records which the State requires to determine either the SCHOOL DISTRICT PROVIDING SERVICES'S or the SCHOOL DISTRICT RECEIVING SERVICES'S compliance with applicable Federal or State statutes or regulations with the effect of law, which regulate either the execution of the Agreement or the performance of obligations under the Agreement. Both parties further agree to retain all materials and records relevant to the execution or performance of the Agreement in accordance with the record retention requirements for such materials and records.

10. Both parties to this Agreement understand that they may receive and or come into contact with protected health information as defined by the Health Insurance Portability and Accountability Act 1996 (“HIPAA”). The Parties hereby acknowledge their respective responsibilities pursuant to HIPAA and shall comply with said Regulations, if applicable.

11. Both parties to this Agreement, their employees, and/or agents agree that all information obtained in connection with the services provided for in this Agreement is deemed confidential information and they shall not use, publish, discuss, disclose or communicate the contents of such information, directly or indirectly with third parties, except as provided for in this Agreement. It is further agreed that any information received by the parties, their
employee and/or agents in connection with this Agreement, which concerns the personal, financial or other affairs of their employees, agents, clients, and/or students will be treated by the parties, their employees and agents in full confidence and will not be revealed to any other person, firms or organizations. In addition, both parties agree that information concerning any student covered by the terms of this Agreement shall not be released except as provided for by applicable law, rule or regulation, including but not limited to the Family Educational Rights and Privacy Act ("FERPA")

12. This Agreement may be terminated by either party to the other party upon thirty (30) days written notice to the other party in accordance with the Education Law. In the event of such termination, the parties will adjust the accounts due and the SCHOOL DISTRICT PROVIDING SERVICES will undertake no additional expenditures not already provided. Upon any such termination, the parties shall endeavor in an orderly manner to wind down activities hereunder. In the event of termination, all reports and services due to the SCHOOL DISTRICT RECEIVING SERVICES must be completed by the SCHOOL DISTRICT PROVIDING SERVICES, its employees, and/or agents within thirty (30) days of the termination date.

13. Services provided pursuant to this Agreement shall be provided without regard to race, creed, color, sex, sexual orientation, national origin, religion, age, disability or sponsorship.

14. All notices required or permitted shall be made in writing by hand delivery or by registered or certified mail, or by a recognized courier service. Notice shall be deemed given on the date of delivery or upon receipt. Notice shall be delivered or mailed to:

Northport- East Northport Union Free School District
158 Laurel Avenue, Northport, NY 11768

Hauppauge Union Free School District
495 Hoffman Lane, Hauppauge, NY 11788

15. The parties shall not assign, transfer, or convey any of its respective rights or obligations under this Agreement without the prior written consent of the non-assigning party.

16. This Agreement shall be governed by the laws of the State of New York. If any portion of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable the remainder of this Agreement shall remain in full force and effect.

17. This Agreement constitutes the full and complete Agreement between the SCHOOL DISTRICT PROVIDING SERVICES and the SCHOOL DISTRICT RECEIVING SERVICES and supersedes all prior written and oral agreements, commitments or understandings with respect thereto. This agreement may not be altered, changed, added to, deleted from, or modified except through the mutual written consent of the parties.

18. The undersigned representative of the SCHOOL DISTRICT RECEIVING SERVICES hereby represents and warrants that the undersigned is an officer, director, or agent of the
SCHOOL DISTRICT RECEIVING SERVICES with full legal rights, power, and authority to enter into this Agreement on behalf of the SCHOOL DISTRICT RECEIVING SERVICES and bind the SCHOOL DISTRICT RECEIVING SERVICES with respect to the obligations enforceable against the SCHOOL DISTRICT RECEIVING SERVICES in accordance with term.

19. The undersigned representative of the SCHOOL DISTRICT PROVIDING SERVICES hereby represents and warrants that the undersigned is an officer, director, or agent of the SCHOOL DISTRICT PROVIDING SERVICES with full legal rights, power, and authority to enter into this Agreement on behalf of the SCHOOL DISTRICT PROVIDING SERVICES and bind the SCHOOL DISTRICT PROVIDING SERVICES with respect to the obligations enforceable against the SCHOOL DISTRICT PROVIDING SERVICES in accordance with terms.

20. This Agreement is subject to approval by the Board of Education, by resolution duly approved.

21. It is mutually agreed that this contract shall not become valid and binding upon either party until the contract is approved by the Superintendent of Schools of the school district receiving services.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the latter date that appears below.

By: ____________________
President
Board of Education
Hauppauge UFSD
Date:

By: ____________________
President
Board of Education
Northport-East Northport UFSD
Date:

APPROVAL OF SUPERINTENDENT

I have examined the above contract and hereby approve the same

By: ____________________
Superintendent of Schools
Hauppauge UFSD
Date:

By: ____________________
Superintendent of Schools
Northport-East Northport UFSD
Date:
Hauppauge Union Free School District

GIFTS FROM THE PUBLIC

Name of Individual or Organization donating gift: **HMS PTA**

Address: **600 Townline Rd., HAUPPAUGE, NY**

Contact person: **Judith Olczak**

Cell Phone: **646-256-3689** Business Phone: 

Donor’s Relation to the Hauppauge Union Free School District: **MS PTA**

Please specify the exact nature of this gift and estimated value: **2 Robotics Kits & related items. See attached invoice.**

Do you have a specific way you would like to see this gift used? Yes [X] No ________

If yes, how would you like to see this gift used? **See attached invoice.**

*If yes, and the school district cannot use this donation in the way you specify, do you want to be notified? Yes [X] No ________

If you wish your name to remain confidential, meaning your name will not appear on the Board Agenda when your gift is accepted, please check here: 

**Judith Olczak** Signature **May 20, 2019** Date

To be completed by the school district:

Signature indicates acceptance of the above gift:

______________________________ President – Board of Education ________________________________

Superintendent of Schools

Donation transferred into Budget Code #: __________________________
HAUPPAUGE MIDDLE SCHOOL PTA
600 TOWNLINE RD
HAUPPAUGE, NY 11788

DATE 6/11/19

PAY TO THE ORDER OF Hauppauge Public Schools
Four Thousand Four Hundred Fifty-Five 55 50/100 DOLLARS

FOR Donation/Gift Robotics Kits + Smart Motors

Signature: [Signature]

Account Number: [Account Number]
Hauppauge Union Free School District

GIFTS FROM THE PUBLIC

Name of Individual or Organization donating gift: Hauppauge High School PTSA
Address: 500 Lincoln Blvd. Hauppauge, New York 11788
Contact person: Wendy Cavanagh

Home Phone: _______________ Business Phone: 631-553-7435

Donor’s Relation to the Hauppauge Union Free School District: Community Member

Please specify the exact nature of this gift and estimated value: The PTSA would like to grant $600.00 to Hauppauge Public Schools to assist with the cost of the Summer College Trip

Do you have a specific way you would like to see this gift used? Yes* ______ No ______

If yes, how would you like to see this gift used? To support the Summer College Trip

______________________________________________________________

*If yes, and the school district cannot use this donation in the way you specify, do you want to be notified? Yes x ______ No ______

If you wish your name to remain confidential, meaning your name will not appear on the Board Agenda when your gift is accepted, please check here: ______

Signature __________________________ Date 6/18/19

To be completed by the school district

Signature indicates acceptance of the above gift:

_______________________________________ President – Board of Education
_______________________________________ Superintendent of Schools

Donation transferred into Budget Code #: ___________________________
HAUPPAUGE HIGH SCHOOL PTA

PAYEE:

ACCOUNT NO.

FOR: College Fund for Students

DATE: 6/19/19

$600.00

SIGNATURE: 

ASTORIA BANK

POWERED BY RCM
June 24, 2019

Hauppauge Board of Education
Hoffman Lane
Hauppauge, New York 11788

At our June 17 meeting, the Hauppauge Educational Foundation approved a donation of $1,190 to the Summer 2019 College Tour. At our meeting Superintendent O’Hara and Assistant Superintendent Pirro explained what the college tour is trying to do and the number of students that would be involved. We approved the donation for the tour to use as needed.

Please review this donation; and if there are no concerns, the Foundation will make the funds available to the Hauppauge School District. The Hauppauge Educational Foundation is always pleased to support the students of Hauppauge, in this case allowing them to see the higher education possibilities upon their graduation.

Sincerely,

Fred Pitrelli
Hauppauge Educational Foundation President
LETTER OF INTENT
FOR THE PURPOSE OF
PARTICIPATING IN A COOPERATIVE BID COORDINATED BY
THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES OF NASSAU
COUNTY
FOR
Various Commodities and/or Services

BE IT KNOWN, that by this Letter of Intent that the School District indicated below plans to participate in the comprehensive cooperative bids conducted by the Board of Cooperative Educational Services of Nassau County, in accordance with the terms of the General Resolution.

The executed General Resolution will be forwarded subsequent to the Board approval, as required by New York State General Municipal Law (Section 119.0).

Superintendent of Schools    Date

Hauppauge
School District Name
GENERAL RESOLUTION

FOR THE PURPOSE OF

PARTICIPATING IN A COOPERATIVE BID CoORDINATED BY

THE BOARD OF COOPERATIVE EDUCATION SERVICES OF NASSAU COUNTY

FOR

Various Commodities and/or Services
As Listed on Pages 1-3 of This Resolution

WHEREAS, the Board of Education, _______ School District of New York State (the "School District") wishes to participate in a Cooperative Bidding Program conducted by The Board of Cooperative Educational Services of Nassau County ("Nassau BOCES") for the purchase of various commodities and/or services as authorized by and in accordance with the Education Law and General Municipal Law, Section 119-o; and

WHEREAS, the District, more particularly, wishes to participate in the joint cooperative bids as listed and checked below (check "yes" or "no"):  

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<th>Participation</th>
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<th>NO</th>
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<td>CORE GROUP:</td>
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<td>(NASSAU BOCES PER BID RATE)</td>
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<td>ABATEMENT AND DISPOSAL OF ASBESTOS &amp; LEAD MATERIALS</td>
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<td>ARTS &amp; CRAFT SUPPLIES</td>
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<td>AUTO BODY SUPPLIES</td>
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<td>AUTO MECHANIC SUPPLIES</td>
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<td>AUTOMOBILES—PASSENGER CARS/VANS/TRUCKS</td>
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<td>AUTOMOTIVE AIR CONDITIONING REPAIRS</td>
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<td>BOILER, DUCT &amp; KITCHEN EXHAUST CLEANING</td>
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<td>BUILDINGS &amp; GROUNDS EQUIPMENT</td>
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<td>CESSPOOL MAINTENANCE SERVICES</td>
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<td>CHAIN LINK FENCING</td>
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<td>COMPUTER HARDWARE, SOFTWARE, NETWORKING AND SUPPLIES</td>
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<td>CUSTODIAL AND GREEN CUSTODIAL SUPPLIES</td>
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<td>DOORS: HOLLOW METAL, FRAMES &amp; HARDWARE</td>
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<td>FAX &amp; PHOTOCOPY EQUIPMENT, SUPPLIES AND MAINTENANCE</td>
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<td>FINANCING &amp; LEASING OF CAPITAL EQUIPMENT</td>
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<td>FIRE EXTINGUISHERS &amp; SERVICE</td>
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<td>FITNESS EQUIPMENT</td>
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<td>FLOOR TILES &amp; INSTALLATION</td>
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<td>FOOD &amp; BEVERAGE SUPPLIES</td>
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<td>FOOD PREPARATION: PAPER &amp; PLASTIC SUPPLIES</td>
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<td>FOOD SERVICE EQUIPMENT</td>
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<td>FUEL OIL</td>
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<td>FURNITURE: CLASSROOM &amp; OFFICE</td>
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<td>GENERAL SAFETY SUPPLIES</td>
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<td>GENERAL SCHOOL &amp; OFFICE SUPPLIES</td>
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<td>GLAZING SERVICES &amp; SUPPLIES</td>
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<td>GYMNASIUM FLOOR REFINISHING</td>
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<td>HVAC EQUIPMENT</td>
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<td>REFRIGERATION &amp; AIR CONDITIONING SUPPLIES</td>
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<td>ROOF MAINTENANCE &amp; REPAIR</td>
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NOW THEREFORE, BE IT RESOLVED that the School District hereby appoints Nassau BOCES as its representative and agent in all matters related to the Cooperative Bidding Program, including but not limited to responsibility for drafting of specifications, advertising for bids, accepting and opening bids, tabulating bids, reporting the results to the School District and making recommendations thereon, and

BE IT FURTHER RESOLVED that Nassau BOCES is hereby authorized to award cooperative bids on behalf of the School District to the bidder deemed to be the lowest responsible bidder meeting the bid specifications and otherwise complying with Article 5-A of the General Municipal Law of the State of New York relating to public bids and contracts and to enter into contracts for the purchase of the commodities and/or services as authorized herein, and

BE IT FURTHER RESOLVED, that the School District hereby authorizes its School Business Administrator or his/her designee on behalf of the School District to participate in cooperative bidding conducted by Nassau BOCES and if requested to furnish Nassau BOCES an estimated minimum number of units that will be purchased and such other documents and information which may be reasonably necessary or useful in conducting the Cooperative Bidding Program, and

BE IT FURTHER RESOLVED, that the School District agrees to assume its equitable share of the administrative costs of the cooperative bidding program and all of its obligations and responsibilities pursuant to any contract that may be awarded by Nassau BOCES on behalf of the School District.

Superintendent of Schools

Date

Hauppauge U.F.S.D.

School District Name

O:\BIFFP\Department Data\Counsel Department Data\David Kay\BOCES\GENERAL RESOLUTION.doc