

Meeting Date: July 25, 2023							
7.3 A - Other Contracts							
Agenda Number	Contract Name/Vendor	Details (What)	Previously Approved by District?	Audience (Who)	Cost	Contract Start Date	Contract End Date
7.3A1	Muscle Best, Inc.	HS Auditorium Rental	Yes	District-Wide	N/A	11/18/23	11/18/23
7.3A2	PMA Management Corp.	Third Party Workers Compensation	Yes	District-Wide	Fee Schedule	7/1/23	6/30/24
7.3A3	SCOPE	Professional Affiliation Agreement	Yes	District-Wide	\$3,264.00	7/1/23	6/30/24
7.3A4	CORE BTS	District Software	Yes	District-Wide	\$18,120.00	7/1/23	6/30/24
7.3A5	Living Word Church of God of Smithown, Inc.	Whiporwil Rental	Yes	District-Wide	N/A	7/1/23	6/30/24
7.3A6	Deep Water Fleet, Inc.	Annual 5th Grade Oceanography Trip	Yes	BW Students	\$3,500.00	10/3/23	10/6/23
7.3A7	Sele-Dent, Inc.	Third Party Dental	Yes	District-Wide	\$4.25 Per Member Per Mo	7/1/2023	6/30/23
7.3A8	SIMAREN Corp. d/b/a Wisdom Prot. Svcs	Security Director	Yes	District-Wide	\$11,007.16 Per Mo.	7/1/23	12/31/23
7.3A9	SIMAREN Corp. d/b/a Wisdom Prot. Svcs	Armed Guards	Yes	District-Wide	\$39.62/hr, \$59.43/hr/ot	7/1/23	6/30/24
7.A10	SCOPE	Universal Pr-K	Yes	District-Wide	\$10,440 Per Month	7/1/23	6/30/24
7.3A11	Hi-Tech Air Conditioning Service, Inc.	Change Order - HS STEM Lab	No	High School	\$15,916.00	On-going	On-going
7.3A12	The Opportunity Pre-School	Whiporwil Rental	Yes	District-Wide	N/A	7/1/23	6/30/24
7.3A13	GoGuardian	District Software	Yes	District-Wide	\$22,304.25	7/1/23	6/30/24
7.3A14	Incident IQ	District Software	Yes	District-Wide	\$22,304.25	7/1/23	6/30/24
7.3 B - Award of Bids/RFPs							
7.3B1	Fitzgerald's Driving School	Drivers Ed Instruction	Yes	High School	\$395 Per Student	7/1/23	6/30/24
7.3B2	Whitson's	Food Service	Yes	District-Wide	\$3.5383 Break/Lunch	7/1/23	6/30/24



HAUPPAUGE PUBLIC SCHOOLS

495 Hoffman Lane
P.O. Box 6006
Hauppauge, New York 11788

CATHERINE FREEMAN
Interim Assistant Superintendent for Business & Operations

TO: Board of Education

FROM: Catherine Freeman

A handwritten signature in blue ink, appearing to be 'CF', is written over the name 'Catherine Freeman'.

RE: Muscle Best, Inc.

DATE: July 12, 2023

The Board approved the contract with Muscle Best at a prior meeting, however, there is a revision in the event date.

Agreement dated as of the ____ day of _____, 2023 by and between the Hauppauge Union Free School District ("the District"), having its administrative offices at 495 Hoffman Lane, Hauppauge, New York 11788, and Muscle Best Inc. ("Licensee") with an address at 235-C Robbins Lane, Syosset, New York 11791.

1. USAGE

A. The District hereby agrees to license to Licensee the use of the Hauppauge High School Auditorium on November 18, 2023 from 8:00 a.m. to 8:00 p.m. for the purpose of holding a bodybuilding and fitness exhibition for District residents. The Licensee will have access to the District's speakers, microphones and stage lights. Wherever the term "Facilities" is used in this Agreement, the term "Facilities" includes, but is not limited to, the Hauppauge High School Auditorium and sidewalks, walkways, parking lots, entrances, stairs, and all other areas incidental to and/or connected with the use of the Auditorium.

B. The Licensee will neither encumber nor obstruct the sidewalk in front of, the entrance to, or halls and stairs of the Facilities, nor allow same to be obstructed or encumbered in any manner.

C. The Licensee will neither place, nor cause or allow to be placed, any sign or signs of any kind whatsoever at, in or about the entrance to the Facilities or any other part thereof, except in or at such place or places as may be indicated by the District and consented to by the District in writing.

D. If within five calendar days of termination or expiration of this Agreement, the Licensee fails to remove personal property owned by the Licensee prior to the termination or expiration of this Agreement, then that property will be deemed abandoned by Licensee and will become the property of the District. No representative of Licensee may enter District property after termination or expiration of this Agreement for the purpose of removing Licensee property without written permission from the District. To the fullest extent permitted by law, the Licensee covenants and agrees to indemnify, defend (with counsel approved by the District) and hold harmless the District, its officers, agents, servants, employees, students and guests from any and all liability including claims for damages arising out of Licensee's removal of the Licensee's personal property.

E. Any alteration or modification to the Facilities by the Licensee cannot be made without the prior written consent of the District.

2. FEES

The Licensee agrees to pay the District \$9,396.00 for this license. The District acknowledges that this amount has already been paid by Licensee and no further fees are due prior to the event.

3. DISTRICT ACCESS

The Licensee agrees that the District and its representatives have the right to enter into and upon the Facilities at all reasonable hours.

4. **THE LICENSEE'S OBLIGATIONS**

A. The Licensee will obtain and keep in full force and effect during the term of this Agreement, at the Licensee's sole cost and expense, the following insurance:

- i. **Commercial General Liability Insurance**
\$1,000,00 per occurrence/\$2,000,000 aggregate, with not exclusions for athletic participants.
\$2,000,000 Products and Completed Operations
\$1,000,000 Personal and Advertising Injury
\$100,000 Fire Damage
\$10,000 Medical Expense
- ii. **Workers' Compensation and N.Y.S. Disability**
Statutory Workers' Compensation (C-105.2 or U-26.3), 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 person seeking an exemption must file a CE-200 FORM with the State. This form can be completed and submitted directly to the Workers' Compensation Board online.
- iii. **Automobile Liability**
\$1,000,000 combined single limit for owned, hired, borrowed and non-owned motor vehicles.
- iv. **Umbrella/Excess Insurance**
\$5,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis over the required general liability coverage.

Umbrella/Excess Insurance for Diving Program
\$10,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis over the required general liability coverage.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Licensee hereby agrees to effectuate the naming of the District as an additional insured on the Licensee'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-;"
- state that the Licensee's coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers with a waiver of subrogation in favor of the District.

It is the intent of this Agreement that the additional insured status will cover the Facilities (as defined in Paragraph 1 above). 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 Licensee will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Licensee will provide a copy of the policy endorsements and forms.

The Licensee hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Licensee, 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 Licensee acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The Licensee must provide the District with proof satisfactory to the District that the above requirements have been met, prior to the commencement of its use of the 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 Licensee will provide the District with a copy of the Licensee'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 the Assistant Superintendent for Business and Operations or her designee.

B. The Licensee must comply with District security requirements and is responsible for providing supervision to conform to the District requirements for the security and supervision of Facilities.

C. The Licensee must supply adequate personnel to provide adequate supervision of the Facilities at all times of usage.

D. The District is not responsible for any loss, theft or damage to any Licensee or personal property stored in the locker rooms before, during or after periods of authorized use.

5. TERMINATION

This Agreement may be terminated by the District and the Licensee's permission to use the Facilities may be withdrawn immediately: (a) if any District policies, rules, or regulations are breached in connection with the Licensee's use of the Facilities; (b) if the Licensee breaches its obligations to provide the insurance coverage set forth in this Agreement; (c) if the Licensee breaches any of its obligations under or violates any applicable state or federal law or regulation; (d) if the Licensee's use of the Facilities poses a threat to the safety of any person or District property; or (e) for any other reasonable and lawful purpose.

6. LICENSEE ASSIGNMENT

The Licensee may 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 the District in each case.

7. REPAIRS

The Licensee must 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 the Licensee, its agents, servants, employees, students or guests. The Licensee agrees to surrender the Facilities and fixtures therein at the end of this Agreement in good condition and broom clean, except for necessary structural repairs and normal use.

8. DAMAGE

The Licensee must give the District immediate notice of fire, accident, damage or dangerous or defective condition. If the fire or other casualty is caused by an act or neglect of the Licensee, the Licensee's employees or invitees, or at the time of the fire or casualty the Licensee is in default in any term of this Agreement, then all repairs will be made at the Licensee's expense and the Licensee must pay the full license fees with no adjustments. The cost of the repairs will be added License fees.

9. INDEMNIFICATION

To the fullest extent permitted by law, the Licensee 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, out of or in connection with Licensee's actual use or proposed use of the Facilities, including, but not limited to the use of the Facilities by the Licensee's employees, vendors, contractors, subcontractors, participants, volunteers, members and guests (collectively, "the Attendees").

In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing be asserted by any person in respect of which indemnification may be sought from the Licensee under the provisions of this Paragraph, the District will promptly notify the Licensee of the legal proceeding, claim or demand, and give the Licensee an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the Licensee in connection with the defense, which will be at the expense of the Licensee. In the event that the Licensee 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 Licensee 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 Licensee of a legal proceeding, claim or demand will not relieve Licensee of any obligation that Licensee has pursuant to this paragraph unless and only to the extent that the failure to notify the Licensee materially prejudices Licensee. Licensee 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 will survive the expiration or sooner termination of this Agreement.

10. MISCELLANEOUS

A. No smoking or vaping is permitted on District property.

B. The District may request a list of the names of all anticipated Attendees.

C. Licensee is responsible for supervision of all Attendees.

D. Posted occupancy limits must be observed and maintained.

E. Fire extinguisher cabinets, fire alarm pull stations and exit paths must remain clear at all times. No open flame or propane or gasoline stoves are allowed on District property.

F. The use of fog machines is prohibited.

E. School building doors may not be propped open.

11. NO WAIVER OF PROVISIONS

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

12. 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.

13. 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 Licensee:

Muscle Best Inc.
235-C Robbins Lane
Syosset, New York 11791.

To the District:

Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Attention: Assistant Superintendent for
Business & 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 business days after so mailing.

14. 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.

The language of all parts of this Agreement will in all cases be construed as a whole, according to its fair meaning and not strictly for or against any of the parties. This Agreement will not be construed against any party by reason of this Agreement being prepared by that party's attorney. Each party warrants that it 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.

15. 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 will not be affected thereby and said illegal, invalid or unenforceable part, term or provision will be deemed not a part of this Agreement.

16. 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, will be deemed to exist or to bind either of the parties hereto or to vary any of the terms and condition contained herein.

17. 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.

18. DISTRICT'S AUTHORITY

The Licensee represents and warrants that the Licensee will observe and comply with the policies, rules (including, but not limited to, all posted rules related to preventing the spread of COVID-19) and regulations of the District including, but not limited to, the District Code of Conduct (collectively, "the Policies") and will require that the Licensee's employees, contractors, participants, volunteers, members and guests to do the same. Copies of the Policies are available at <http://www.hauppauge.k12.ny.us/domain/602>. The Licensee acknowledges that the Licensee has reviewed and is familiar with the Policies. The Licensee will carry out the orders, directions and policies conveyed by the District from time to time either orally or in writing.

The Licensee acknowledges and agrees that the Licensee's use of the Facilities requires strict compliance with all relevant federal, State and local laws, regulations, executive orders, guidance and guidelines with respect to preventing the spread of COVID-19. The Licensee acknowledges and agrees that the Licensee and its employees, contractors, participants, volunteers, members and guests will comply with all applicable federal, State and local laws, regulations, executive orders, guidance and guidelines.

The Licensee agrees that prior to the start of an event or any use of the Facilities, an announcement will be made to its employees, contractors, participants, volunteers, members and guests regarding emergency evacuation procedures (*e.g.*, pointing out posted procedures, providing directions for exiting, or providing instructions regarding how to respond to alarms).

19. ASSUMPTION OF RISK

The Licensee acknowledges that the use of the Facilities may expose Licensee's owners, officers, employees, contractors, participants, volunteers, members and/or guests to certain risks including the potential risk of transmission of COVID-19, which is extremely contagious and spreads easily through person-to-person contact. The Licensee acknowledges that operating or participating in the Licensee could increase the exposure and risk of contracting COVID-19 and that such exposure or infection may result in personal injury, illness, permanent disability and death to the Licensee's owners, officers, employees, contractors, participants, volunteers, members, and guests, and to others. The Licensee is voluntarily operating and participating in the Licensee's use of the Facilities with knowledge of the risks, hazards and other dangers involved.

20. 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 to these presents have hereunto set their hands as of the latter day and year written below.

BOARD OF EDUCATION,
HAUPPAUGE UNION FREE

By: _____
David Barshay, President

Date: _____, 2023

MUSCLE BEST, INC.

By: _____
Steven Weinberger, President

Date: 7/21, 2023

#2554327



HAUPPAUGE PUBLIC SCHOOLS

495 Hoffman Lane
P.O. Box 6006
Hauppauge, New York 11788

CATHERINE FREEMAN

Interim Assistant Superintendent for Business & Operations

TO: Board of Education

FROM: Catherine Freeman

RE: PMA Management Corp.

DATE: July 12, 2023

The 2023/2024 Agreement for Third Party Claim Administrative Services (Worker's Compensation) with PMA Management Corp. is on the Board's agenda.

AGREEMENT FOR THIRD PARTY CLAIM ADMINISTRATIVE SERVICES

THIS IS AN AGREEMENT for third party claim administrative services (“**TPA services**”) made as of the 1st day of July, 2023, by and between PMA Management Corp. (“**PMA**”), a corporation duly incorporated under the laws of the Commonwealth of Pennsylvania, whose principal offices are located at 380 Sentry Parkway, Blue Bell, PA 19422 and Hauppauge Union Free School District (“**Client**”), an entity duly authorized under the laws of the State of New York, whose principal place of business is located at 495 Hoffman Lane, P.O. Box 6006, Hauppauge, New York 11788.

RECITALS

CLIENT is authorized by the State of New York to self-insure its workers’ compensation program or has procured a policy of insurance with an insurance company for its workers’ compensation insurance program;

PMA, a duly authorized provider of third party administrator (“**TPA**”) services in the State of New York, hereby agrees to provide Client TPA and other services which are more fully described herein; and

CLIENT, having selected PMA to provide TPA and other services, desires to enter into an agreement with PMA on the terms and conditions set forth herein.

ACCORDINGLY, in consideration of the foregoing and the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

1. DEFINITIONS

- a) “**ALAE**” shall mean any cost or expense in connection with the administration, investigation, adjustment or defense of claims on behalf of Client.
- b) “**Claim File**” shall mean the file, either electronic or paper, for any open or closed claim which is provided to PMA at the inception of this Agreement or created during this Agreement.
- c) “**Indemnity Claim**” shall mean any reported workers’ compensation claim that is not a Medical Only Claim or Record Only Claim.
- d) “**Clinical Case Manager**” shall mean a nurse who provides either on-site or telephonic medical management services in connection with workers’ compensation claims.
- e) “**Medical Only Claim**” shall mean any reported workers’ compensation claim meeting all of the following criteria: (1) there is no (a) subrogation activity, (b) litigation activity and the claim is not otherwise contested, (c) indemnity paid, salary in lieu of indemnity paid or time lost from work beyond the state prescribed waiting period, (d) investigation or review regarding compensability or liability assessment, or (e) carrier report, excess reporting requirement, client meeting (other than a routine meeting where the claim is noted) or settlement authority approval; (2) the claim is open for less than 12 months from the date of injury or accident; and (3) total paid amount does not exceed \$3,500.

- f) **"Prior Agreement"** shall mean the Prior Agreement for third party claim administrative services entered into between PMA and Client, as amended.
- g) **"Qualified Claim"** shall mean any Indemnity Claim, Medical Only Claim, or Record Only Claim occurring within the term of this Agreement and any Takeover Claim that PMA agrees to service under this Agreement, and any Indemnity Claim, Medical Only Claim, or Record Only Claim serviced under the Prior Agreement.
- h) **"Record Only Claim"** shall mean any incident reported for statistical purposes only and specifically identified as a Record Only Claim at the time of the initial report, with no (1) reserve, (2) involvement of PMA personnel for follow up, outreach or any other activity other than recording the incident in PMA's system, (3) subrogation activity, (4) litigation activity and the claim is not otherwise contested, (5) payment of any type required or time lost from work, (6) investigation or review regarding compensability or liability assessment, or (7) carrier report, excess reporting requirement, client meeting or settlement authority approval.
- i) **"Takeover Claim"** shall mean any open claim which has been: (1) administered by Client or Client's third party administrator other than PMA prior to the inception of this Agreement; and (2) subsequently transferred to PMA for servicing on or after the inception of this Agreement. Closed claims with accident dates prior to the Effective Date (as defined below) and subsequently reopened during the term of this Agreement will be considered Takeover Claims.

2. TERM

This Agreement is effective beginning July 1, 2023 ("**Effective Date**") for a term of one year until June 30, 2024; thereafter and at the option of the Client, this Agreement may be renewed for successive one year terms unless otherwise terminated in accordance with this Agreement.

PMA will provide notice of any changes to the fees and charges set forth in this Agreement at least 60 days prior to the expiration of any term and will remind Client in writing of Client's option to renew this Agreement at least 60 days prior to the expiration of any term. If Client wishes to terminate this Agreement as a result of such price changes, it may, within 30 days of receipt of notice of such change, terminate this Agreement by providing 60 days' notice to PMA. The current fee structure will remain in effect during the 60 day period. If Client wishes to renew this Agreement, then it will provide PMA with written notice containing its request to renew at least 30 days prior to the expiration of the then current term of the Agreement.

3. TPA SERVICES

- a) PMA shall provide customary and appropriate workers' compensation claim handling services for all Qualified Claims. Specifically, with regard to:
 - i. Indemnity Claims - PMA will provide the services required to make a determination regarding compensability, make reserve recommendations to the Client, pay the appropriate level of indemnity benefits and medical bills and expenses as provided in this Agreement, and under appropriate circumstances, attempt to resolve the claim.
 - ii. Medical Only Claims - PMA services will consist of the payment of medical bills and expenses as provided in this Agreement and making reserve recommendations to the Client.
 - iii. Record Only Claims - PMA services will consist only of making a record of the injury or accident.

PMA shall determine for Client's final approval whether a claim is an Indemnity Claim, a Medical Only Claim or a Record Only Claim for all purposes under this Agreement.

- b) PMA shall provide claim handling services for Qualified Claims from the date of first report of injury or first notice of claim for the term of this Agreement.
- c) PMA shall file all required forms in the adjustment of Qualified Claims pursuant to the applicable workers' compensation statutory and regulatory scheme.
- d) Upon Client's request, PMA will provide status reports in accordance with PMA's customary business practice for all Qualified Claims having total incurred losses of \$50,000 or above.
- e) If requested by Client during the term of this Agreement, PMA will provide up to two telephonic claim reviews annually based on mutually agreed upon claims selection.
- f) If requested by Client during the term of this Agreement, PMA will provide an annual stewardship report.

4. EXCESS REPORTING SERVICES

- a) PMA will report to Client's excess insurance carrier or carriers ("**Carrier(s)**") all Qualified Claims serviced by PMA which meet Client's excess insurance reporting requirements, subject to the following requirements:
 - i. Client shall promptly provide PMA with copies of all applicable excess policies and contact information, as well as amended or modified policies, endorsements, and any excess claim reporting thresholds or standards agreed by the Client and Carrier(s).
 - ii. Client shall direct Carrier(s) to promptly provide PMA with copies of all claim notice confirmations, claim reports, and any similar reports provided by Carrier(s) to Client.
 - iii. Client shall promptly provide claim data for conversion to PMA's computer system for purposes of determining historical loss information.
 - iv. Client shall instruct its attorneys to advise PMA when in the attorney's professional opinion one of Client's claims meets the reporting thresholds or standards.
- b) Client's failure to meet the requirements set forth above shall relieve PMA of its obligation to report excess claims to Carrier(s). PMA shall not be obligated to report any claims not serviced by PMA.
- c) PMA will attempt to collect non-aggregate excess claim recoveries on behalf of the Client for a period of 60 days (from the date of the initial request), after which PMA will turn over pursuit of the outstanding balance to the Client for the reimbursable funds, and possess no further collection obligations or responsibilities for that outstanding balance.

5. MANAGED CARE SERVICES

- a) Client agrees to exclusively utilize the following PMA managed care services:

- i.** PMA's medical bill review and repricing services, which may include but are not limited to:
 - 1. reviewing medical documents for appropriateness, relatedness to the injury or accident, unbundling, and conformity to applicable fee schedule or usual and customary re-pricing; and
 - 2. utilizing PMA's complex bill review process to review certain medical bills for possible additional savings.
- ii.** PMA's managed care networks which include:
 - 1. traditional networks (e.g. physicians and medical facilities);
 - 2. specialty networks (e.g. providers of durable medical equipment, diagnostic testing, physical therapy, pain management, home health, and dental services);
 - 3. state specific networks (e.g. California Medical Provider Network, Texas Health Care Network); and
 - 4. out-of-network services from PMA and third party vendors.
- iii.** PMA's pharmacy benefit management program (e.g. bill repricing, home-delivery, brand-to-generic conversion, customized formularies, narcotic management, drug utilization review).
- iv.** Utilization of clinical case management services when any of the following criteria are met:
 - 1. surgical procedure;
 - 2. spinal cord injury;
 - 3. occupational disease or a pandemic requiring medical treatment;
 - 4. third degree burns;
 - 5. multiple complex fractures;
 - 6. crush injuries requiring poor initial medical outcome;
 - 7. head injuries with cognitive impairment or loss of consciousness;
 - 8. immediate post-injury hospital admission;
 - 9. multiple trauma; or
 - 10. adjuster identified assignments.

Continued clinical case management will proceed at the discretion of PMA.

- b)** PMA shall also provide the Medicare related services set forth in Exhibit A to this Agreement.
- c)** PMA's Clinical Case Managers are authorized to provide PMA's Point of Sale Nurse Intervention Program on all claims at PMA's discretion to assist with seeking improved claim outcomes. The Program will review incoming claimant medications which are outside of Centers for Disease Control guidelines, and recommend an intervention strategy which may include potential weaning, drug testing, and peer reviews to attempt to mitigate long term dependency at the point of sale.

- d) PMA is authorized to employ utilization review services for evaluation of reasonableness, necessity, duration, and frequency of treatment or medication. These services may include, but are not limited to the following:
 - i. Prospective Review - a review prior to treatment or admission conducted by an experienced registered nurse to validate the necessity, frequency and duration of treatment.
 - ii. Concurrent Review - a review during the course of treatment conducted by an experienced registered nurse to evaluate treatment and planned procedures and establish target completion dates.
 - iii. Retrospective Utilization Review- a review after the completion of treatment conducted by an experienced registered nurse to identify inappropriate treatment utilization.
 - iv. Peer Review or Physician Advisor Review - physician-to-physician review and contact to resolve questions related to treatment and diagnosis.
- e) PMA is authorized to employ prospective and concurrent utilization review services that may also include the use of physician advisor review such as for cases that are complicated and warrant physician review to resolve treatment or diagnosis questions.
- f) Upon Client request, PMA will utilize PMA Care24 point of injury nurse triage to assist with determining the direction of care when an injury is reported. This service may include but is not limited to a Clinical Case Manager providing self-care recommendations to the claimant, first notice of loss reporting, direction of care into the network or to a panel provider, or a recommendation for use of emergency room care.
- g) PMA may retain third party vendors for the purpose of providing specific medical management services.

6. RISK CONTROL SERVICES

- a) Upon request, PMA will:
 - i. perform a risk management assessment;
 - ii. prepare a more detailed analysis of specific risk-related issues, or prepare custom risk control strategies and implementation plans;
 - iii. provide the following risk control services: industrial hygiene assessment, ergonomic risk assessment, and consultation services (e.g. strategic risk control plan facilitation, and employee communication initiatives, as well as management, supervisor and employee development programs and occupational health service programs);
 - iv. create and administer a specific risk control service project mutually agreed upon with Client.
- b) Any risk control services provided are solely to assist Client in reducing Client's exposure to risk of loss. Evaluations concern only such conditions and practices as may be evident at the time of PMA's visits. **THE SERVICES PERFORMED UNDER THIS AGREEMENT BY PMA SHALL NOT BE CONSTRUED AS APPROVAL BY PMA OF CLIENT'S OPERATIONS,**

PROCESSES, SERVICES, PRODUCT DESIGN OR PRODUCT FUNCTION. THE PARTIES AGREE THAT, WHILE PMA WILL PERFORM RISK CONTROL SERVICES WITHIN INDUSTRY STANDARDS, NO GUARANTEES OR OTHER SIMILAR ASSURANCES CAN BE MADE BY PMA THAT IT HAS DISCOVERED ALL OF CLIENT'S PAST, CURRENT, OR FUTURE RISKS OR HAZARDS. THE PARTIES FURTHER AGREE THAT BY PROVIDING THE SERVICES SPECIFIED HEREUNDER, PMA IS NOT MAKING ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY OR FITNESS OF CLIENT'S PRODUCTS OR PROCESSES FOR A PARTICULAR PURPOSE, COMPLIANCE WITH ANY LAW OR REGULATION, OR ANY OTHER WARRANTY, AND ANY LIABILITY OF PMA, ITS AFFILIATES OR AGENTS, FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, FROM ANY CAUSE WHATSOEVER, IS EXPRESSLY DISCLAIMED, EVEN IF PMA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION OF THE AGREEMENT SHALL SURVIVE THE TERMINATION OF THE AGREEMENT.

7. RISK MANAGEMENT INFORMATION SYSTEM ("RMIS")

a) PMA will provide the following RMIS services:

- i.** upon request, a standard conversion of Client's existing claims data into PMA's claim system. A standard conversion shall be from one electronic source and a customized conversion shall be from two or more sources;
- ii.** access to PMA's RMIS for up to three users, provided Client agrees to the terms and conditions of the License Agreement when first accessing PMA's RMIS;
- iii.** standard reports available through PMA's RMIS;
- iv.** One monthly data file transfer to a single carrier or RMIS system ("**Standard Data Feed**");
- v.** customized reporting reasonably acceptable to PMA, subject to additional terms, conditions and fees as may be agreed upon by the parties. PMA will provide a reasonable estimate of the costs of preparation of any such reports to Client in advance.

b) PMA warrants PMA's RMIS against malfunctions, errors, or loss of data which are due solely to errors on its part. If Client notifies PMA in writing and furnishes adequate documentation of any such malfunction, error or loss of data, then:

- i.** in the event of a malfunction, error or loss of data, upon notice from Client within 20 days of the event, PMA will recreate the reports designated by Client without an additional fee, using data as of the recreation date.
- ii.** the maximum and only liability of PMA for such malfunction, error or loss of data shall be its obligation to recreate reports or regenerate data as described above.

c) THE WARRANTIES STATED IN THIS SECTION ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL PMA BE LIABLE FOR ANY LOSS OR DAMAGE TO REVENUES, PROFITS, OR GOODWILL OR OTHER SPECIAL,

INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND RESULTING FROM ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS SECTION, INCLUDING WITHOUT LIMITATION ANY INTERRUPTION OF BUSINESS, EVEN IF PMA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THIS SECTION OF THE AGREEMENT SHALL SURVIVE THE TERMINATION OF THE AGREEMENT.

d) Obligations of Client regarding use of PMA's RMIS:

- i.** Client shall adhere to state and federal law with regard to protecting the privacy of any claimant whose information may appear in PMA's RMIS. Client agrees to use all available security features and to notify PMA promptly of all potential and actual breaches of the system.
- ii.** Client agrees that no information in PMA's RMIS will be used as a pretext for retaliatory or other illegal or unfair discriminatory employment practices in violation of any federal or state statute or regulation.

e) General Provisions regarding PMA'S RMIS:

- i.** Client agrees to limit access to PMA's RMIS to those persons who perform the essential functions of claim and risk management, including protecting security access passwords and communications, except that this provision is not intended to limit Client from generating and using reports and statistics for legitimate business purposes.
- ii.** Unless otherwise stated, Client's access to PMA's RMIS will end upon termination of the Agreement.

8. LITIGATION SUPPORT SERVICES

a) In the event a Qualified Claim managed by PMA pursuant to this Agreement: (x) enters into litigation; (y) is scheduled for a workers' compensation hearing; or (z) involves a potential third-party (subrogation) claim (collectively, (x), (y) and (z), "Disputed Claim**"), PMA will:**

- i.** make recommendations to Client regarding claim matters relevant to the Disputed Claim;
- ii.** assist Client in the retention and appointment of counsel selected by Client to represent Client in and regarding such legal matters, and assist Client in the selection of expert witnesses and vendors;
- iii.** pursue all appropriate subrogation claims as directed by Client.

b) If requested by Client, PMA will manage Disputed Claims in accordance with PMA's Defense Counsel Guidelines. PMA will make settlement recommendations to Client, but the final decision regarding the disposition of any Disputed Claim will be made solely by Client.

c) PMA is authorized to utilize legal bill analyzer services to review and process legal invoices from all defense counsel utilized by the Client.

9. SECTION 111 REPORTING

a) Client understands and acknowledges that it is a Responsible Reporting Entity ("RRE") as defined

by the Centers for Medicare and Medicaid Services ("CMS"), and is responsible for the reporting requirements as set forth in Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007.

- b) Client authorizes PMA or PMA's designee to undertake Client's Section 111 reporting requirements as Client's Account Manager/Reporting Agent as it relates to Client's Qualified Claims. Client further agrees to fully cooperate with PMA, including the execution of any documents necessary for such authorization.
 - i. PMA shall not provide any Section 111 reporting services for Client's Record Only Claims.
 - ii. PMA shall not undertake Section 111 reporting activities for Client's claims which were converted from Client's prior TPA to PMA but were never serviced by PMA.
- c) Client acknowledges and agrees to provide PMA with complete, accurate, and timely data, as well as completed CMS documentation, for Section 111 reporting purposes.
- d) Upon receipt of complete, accurate claim data, PMA shall commence reporting of Client's data to CMS, and shall continue for as long as PMA provides claims handling services for Client's Qualified Claims.
- e) PMA shall have no liability for any failure of (i) Client to register as a RRE; (ii) Client to execute any documents necessary to authorize PMA or PMA's designee as its Account Manager/Reporting Agent; or (iii) Client or its prior TPA to report Client's claims when they were first required to do so.

10. FUNDING of CLAIMS and EXPENSES

PMA will continue to maintain a non-interest bearing checking account in PMA's name ("**Payment Account**") with PMA's bank, which is to be funded by Client but which PMA will administer for the purposes of paying Qualified Claims and ALAE, in accordance with the procedures set forth in this Section. PMA will provide Client with a monthly schedule ("**Payment Register**") outlining all claim payments, ALAE, and correction items funded by PMA and will contain the name of the payee, date of payment, amount of payment, and claim number for all transactions occurring during the prior month.

- a) The Payment Account will continue to be funded by Client in an amount equal to three months estimated claims payments and ALAE, which amount may be revised at PMA's discretion at any time based upon actual claims and expense payment history. Within 30 calendar days of the receipt of the Payment Register and statement, Client shall reimburse PMA for the total amount of payments made, which reimbursement shall replenish the Payment Account to its required balance. If at any time the Payment Account balance is depleted by 75% or more during the course of any given month, PMA shall provide written notice of such depletion to Client, and Client shall replenish the balance within five business days of receipt of notice.
- b) Should Client fail at any time to maintain the required funding after receiving notification from PMA, PMA will stop providing all services, including ceasing to pay claims and expenses, until such funding has been restored and any related PMA bank charges, fees, or penalties have been paid by Client.
- c) PMA is not obligated to pay any claims or expenses on behalf of Client unless the required funds

are made available by Client to PMA to do so. Should PMA advance funding on the part of Client, then Client shall immediately reimburse PMA or PMA will stop providing services, including ceasing to pay claims and expenses, until full reimbursement has been received and any related PMA bank charges, fees, or penalties have been paid by Client. PMA shall have no liability to Client for any penalties, fines or assessments incurred due to Client's failure to maintain sufficient funds in the Payment Account or PMA's election to stop performing services as a result thereof.

d) This Section of the Agreement shall survive the termination of the Agreement.

11. CLAIM HANDLING SERVICE FEE

a) For claim handling services to be rendered under this Agreement, Client agrees to pay PMA an annual fee of \$21,010, to be paid in four installments. If during the term of this Agreement, any individual occurrence results in more than 10 claims as determined by PMA, then the following additional claim handling fees shall apply:

i. \$850 for each Indemnity Claim

ii. \$125 for each Medical Only Claim

If PMA determines that additional claim handling fees apply, then PMA may bill such additional claim handling fees as they are incurred or in any other reasonable manner as PMA shall determine.

12. OTHER FEES

As compensation for the TPA services provided in this Agreement, Client agrees to pay PMA the fees identified in the Fee Schedule attached to this Agreement as Exhibit A and incorporated into this Agreement by reference as an integral part of this Agreement.

13. PAYMENT of FEES

PMA will bill Client for fees, and Client will pay such bills within 30 days of receipt.

14. CONFIDENTIALITY

a) The parties acknowledge and agree that information emanating from either party's business in any form may be confidential and proprietary in nature. Each party will use its reasonable best efforts during and after the termination of this Agreement to preclude the duplication, use or disclosure of any such confidential and proprietary information to any third party, unless such duplication or disclosure is specifically authorized under this Agreement or otherwise by the party claiming ownership. In addition, the parties agree that information contained in a Claim File or PMA's RMIS or otherwise provided in the context of this relationship shall be considered confidential and proprietary, and may constitute privileged and/or attorney work product protected from discovery by law and/or rules of court. Therefore, neither party will release any such information unless:

i. compelled by an order of a court of competent jurisdiction;

ii. mandated by an insurance code, claim practices act, workers' compensation law, or other applicable law or regulation to provide information to the claimant or other person; or

- iii. mandated by applicable court discovery rules.
- b) If there is an obligation to release part but not all of the information, the part deemed not responsive will be withheld, but nothing in this Agreement is intended to abrogate the duty of either party to comply in good faith with such discovery requests.
- c) Each party agrees that the information contained within PMA's RMIS must be treated in a confidential manner by all users who may gain authorized access to PMA's RMIS.
- d) Client agrees PMA (or its representative) may de-identify and thereafter utilize Client's information for benchmarking and related purposes.
- e) PMA processes on behalf of Client personal information disclosed to it by Client and personal information that Client has asked PMA to collect as part of the services provided under this Agreement. PMA shall not retain, use or disclose personal information relating to Client's injured workers for any purpose other than for the purpose of providing the services contemplated by this Agreement or as permitted by applicable law. PMA may disclose information to its vendors to the extent necessary or advisable to provide the services required under this Agreement.
- f) This Section of the Agreement shall survive the termination of the Agreement.

15. NATURE of RELATIONSHIP

- a) PMA agrees to perform the services described in this Agreement as an independent contractor and not as an agent or employee of Client. Client retains no control or direction over PMA, its employees or agents, or over the detail, manner or methods of the performance of the services described herein.
- b) PMA retains third party vendors to provide services under this Agreement. Vendors must be required to meet requirements determined by PMA, including but not limited to, appropriate licensure, adequate insurance coverage (including cybersecurity), and must meet standards for protecting confidential information. Client shall indemnify, defend, and hold PMA harmless from liabilities resulting from PMA's utilization of any third party vendor selected by Client if the vendor does not meet requirements determined by PMA. Client acknowledges and agrees that PMA may receive allowances or payments from vendors in connection with PMA's utilization of vendor services as consideration for PMA's efforts in the management, administration and integration of the services.

16. TERMINATION

- a) This Agreement may be terminated upon 90 days advance written notice by either party with or without cause.
- b) This Agreement may be terminated:
 - i. by mutual agreement of the parties in writing signed by both parties;
 - ii. by PMA if Client is in default in payment of any fees or expenses due hereunder or fails to maintain the requisite claim funding levels as required herein and PMA has given Client prior written notice of such default 20 days prior to the date set for termination and the client has failed to cure such brief prior to the termination date;

- iii. by the non-breaching party if the other party breaches (other than a monetary breach) under any of the terms, covenants and conditions hereunder and the non-breaching party has given the breaching party prior written notice of such breach 20 days prior to the date set for termination and the breaching party has failed to cure such breach prior to the termination date;
 - iv. by one party if the other party becomes insolvent or bankrupt, is placed into receivership, makes an assignment for the benefit of creditors, or is levied upon or sold by Sheriff's sale;
 - v. by PMA or Client if PMA fails to obtain any required state or federal licensing for providing services hereunder; or
 - vi. by PMA or Client if any state regulatory entity fails to approve or subsequently disapproves or revokes the self-insured status of Client. PMA or Client may choose to suspend all or part of PMA's obligations under this Agreement or terminate this Agreement with respect to a state or states where Client loses its self-insured status.
- c) This Agreement shall be deemed terminated upon its normal expiration.
- d) Upon termination of this Agreement, PMA will provide a final accounting of any amounts due either party. Client shall be responsible for payment of all fees incurred by PMA up to and including the date of termination. Upon final closing of the account, PMA shall return the Claim Files to Client in electronic form. PMA may at its option keep a copy of the Claim Files for PMA's records.
- e) Client and PMA acknowledge that certain approved indemnity, medical and expense payments may still be in process of payment upon the date of termination. Therefore Client agrees that Client will remain responsible for payment of any and all indemnity, medical and expense payments which may be processed by PMA for a Qualified Claim, which shall include, at a minimum, the maintenance of a claim funding mechanism for at least 45 days after the Agreement terminates. In addition, PMA shall return to Client any outstanding checks remaining unpaid after termination. PMA shall not be responsible for Client's escheat obligations with regard to issued but unrepresented checks either before or after the termination of this Agreement.
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- f) PMA may utilize the Payment Account for any outstanding amounts owed by Client to PMA prior to returning unallocated funding to Client.
- g) This Section of the Agreement shall survive the termination of this Agreement. Nothing in this Section of the Agreement shall limit any other remedy that may be available to PMA.

17. INDEMNIFICATION, HOLD HARMLESS, and LIMITATION OF LIABILITY

- a) To the fullest extent permitted by law, Client shall indemnify, defend and hold harmless PMA, and its parents, affiliates, officers, directors, employees, and agents, from and against all claims, losses, damages, costs, liability, penalties or expenses, including attorneys' fees, caused by or resulting from (i) claims from third parties alleging negligence or willful misconduct of Client, its officers, directors, employees or agents; (ii) a disclosure of confidential or proprietary information by Client to any third party that is made in violation of Paragraph 14 herein; or (iii) Client's failure to maintain the funding required by this Agreement in the Payment Account.

In the event that any legal proceeding is instituted or that any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from Client

under the provisions of this Paragraph 17, PMA will promptly notify Client of such suit, claim or demand, and give Client an opportunity to defend same and settle same without any cost to PMA, and will extend reasonable cooperation to Client in connection with such defense, which will be at the expense of Client. In the event that Client fails to defend the same within thirty days of receipt of notice, PMA will be entitled to assume the defense thereof, and Client will be liable to repay PMA for all its expenses reasonably incurred in connection with said defense (including reasonable attorneys' fees, disbursements, expert witness fees and settlement payments). The parties agree to work in good faith on the selection of counsel.

- b) To the fullest extent permitted by law, PMA shall indemnify, defend and hold harmless Client, its affiliates, officers, directors, Board of Education members, employees, and agents, from and against all claims, losses, damages, costs, liability or expenses, including attorneys' fees, caused by or resulting from claims from third parties alleging negligence or willful misconduct of PMA, its officers, directors, employees or agents. However the parties agree that PMA, its directors, officers, agents or employees, will not be liable to Client or any third party for claims arising from PMA's performance under this Agreement in those cases where PMA acted at the request of or pursuant to the instructions of Client.

In the event that any legal proceeding is instituted or that any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from PMA under the provisions of this Paragraph 17, Client will promptly notify PMA of such suit, claim or demand, and give PMA an opportunity to defend same and settle same without any cost to Client, and will extend reasonable cooperation to PMA in connection with such defense, which will be at the expense of PMA. In the event that PMA fails to defend the same within thirty days of receipt of notice, Client will be entitled to assume the defense thereof, and PMA will be liable to repay Client for all its expenses reasonably incurred in connection with said defense (including reasonable attorneys' fees, disbursements, expert witness fees and settlement payments). The parties agree to work in good faith on the selection of counsel. The failure of Client to notify PMA of a legal proceeding, claim or demand will not relieve PMA of any obligation that PMA has pursuant to this Paragraph unless and only to the extent that the failure to notify PMA materially prejudices PMA. PMA 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 Client (which consent will not be unreasonably withheld).

- c) Client agrees that it will not hold PMA liable for, or reduce the compensation of PMA with respect to, any failure of PMA to deliver any services resulting from (i) any failure to cooperate on the part of Client or the prior administrator, or (ii) any files for Takeover Claims which have not been properly maintained or are not delivered to PMA in good order.
- d) Neither party shall be liable to the other party for punitive or consequential damages.
- e) This Section 17 of the Agreement shall survive the termination of the Agreement.

18. NOTICES

All notices required to be given by one party to the other under this Agreement will be in writing and will be sent by first class US mail, postage prepaid, personal delivery, registered mail, certified mail or by nationally recognized overnight carrier and will be addressed as set forth below or to such other address as may be designated in writing by either party in accordance with the provisions of this Agreement and will be effective upon receipt, except that if a notice is sent by first class mail, registered mail or certified mail it shall be deemed effective 3 days after mailing and if the notice is sent by overnight delivery, it will be deemed effective 1 day after mailing.

For Client: Brigid Siena
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788

Karen Jackson
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788

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

For PMA: President
PMA Management Corp.
380 Sentry Parkway
Blue Bell, PA 19422

With a copy to: General Counsel
PMA Management Corp.
380 Sentry Parkway
Blue Bell, PA 19422

19. NON SOLICITATION of OTHER'S EMPLOYEES

Each party to this Agreement agrees not to directly solicit for employment, either as an employee or an independent contractor, employees of the other party during the term of this Agreement or for a period of one year following its termination. The parties acknowledge the difficulty in determining a specific damage amount for breach of this section, therefore, as liquidated damages and not as a penalty, if either party breaches the terms of this section as determined by a court of competent jurisdiction, the breaching party shall pay the other party an amount equal to one year's base salary of each employee hired. This section of the Agreement shall survive the termination of the Agreement.

20. ASSIGNMENT

In accordance with the provisions of Section 109 of the General Municipal Law, PMA is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its rights, title, or interest in this Agreement, or its authority to execute this Agreement to any other person or corporation without the previous consent in writing from Client.

21. COOPERATION

- a) Client and its agents, representatives and employees will promptly report to PMA all notices of injuries, losses or claims for which Client may be liable under its self-insurance program, and to provide all necessary documents and materials to PMA, including but not limited to excess policies, which are necessary to provide the services hereunder.
- b) Each party and its agents will cooperate fully with the other party in connection with its obligations hereunder and upon reasonable request, assist in the investigation, litigation, settlement and/or defense of a particular Qualified Claim. Upon prior notice from Client, all Claim Files will be open to Client's inspection at reasonable times, at the office of PMA. PMA may, at its own option

within five business days of such request provide Client or Client's representative with limited access to PMA's RMIS for the purposes of reviewing Claim Files electronically.

- c) This Section of the Agreement shall survive the termination of the Agreement.

22. WARRANTIES and REPRESENTATIONS

- a) By affixing its authorized signature below, Client warrants that it has been duly authorized and/or otherwise possesses all requisite authority and may lawfully enter into this Agreement.
- b) By affixing its authorized signature below, PMA warrants that it has been duly authorized and/or otherwise possesses all requisite authority and may lawfully enter into this Agreement.

23. MODIFICATION

PMA may request that Client agree to a modification of the fees set forth in this Agreement if: (i) PMA's fees and charges were based upon inaccurate or erroneous data, or Client's business changes materially in the nature or volume of business or claims from what was originally contemplated at the inception of the Agreement; or (ii) during the term of this Agreement, legislative and/or regulatory changes materially impact or change the scope of PMA's services or responsibilities. If the parties are unable to reach an agreement with regard to the modification, then either party may terminate this Agreement with 90 days written notice to the other party, with the current fee structure remaining in effect. PMA will continue to provide services for the 90 day notice period, after which PMA will return all Claim Files to Client and submit a final billing to Client.

24. INSURANCE

PMA will obtain and keep in full force and effect during the term of this Agreement, at PMA's sole cost and expense, the following insurance:

- Commercial General Liability Insurance:
\$1,000,000 per occurrence/ \$2,000,000 aggregate
\$2,000,000 products/completed operations
\$1,000,000 personal and advertising injury
\$100,000 fire damage
\$10,000 medical expense
The Commercial General Liability Insurance must include coverage for sexual misconduct
- Cyber Liability
\$2,000,000 per occurrence/\$2,000,000 aggregate for the professional services provided by PMA pursuant to this Agreement. If the policy is written on a claims-made basis, the effective date must pre-date the inception of this Agreement. Coverage must remain in effect for three years following the completion of the work.
- Fidelity and Cyber Crime Insurance
\$1,000,000 per claim with a \$40,000,000 aggregate for the dishonest acts of PMA's employees including coverage for computer fraud and fund transfer fraud. The policy must include the Client's property as covered property.
- Automobile Liability Insurance: \$1,000,000 combined single limit for owned, hired, borrowed and non-owned motor vehicles.

- Workers' Compensation and N.Y.S. Disability: Statutory Workers' Compensation (C-105.2 or U-26.3); and N.Y.S. Disability Benefits Insurance (DB-120.1) 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 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.

- Professional Errors and Omissions Insurance: \$2,000,000 per occurrence/ \$2,000,000 aggregate for the professional acts of PMA performed under this Agreement for Client. If written on a "claims-made" basis, the retroactive date must pre-date the inception of this Agreement. Coverage must remain in effect for three calendar years following the completion of work.
- Fidelity Bond: For dishonest acts of PMA's employees with coverage for computer fraud and fund transfer including client coverage.
- Excess Insurance: \$3,000,000 each occurrence and aggregate. With the exception of PMA's Professional Liability Insurance Policy, excess coverage must be on a follow-form basis or provide broader coverage over the required Auto Liability, General Liability and Professional Liability coverages

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the PMA hereby agrees to effectuate the naming of Client as additional insured on PMA's commercial automobile and general liability insurance policies, as well as its umbrella policy (which is a follow form policy). At Client's request, PMA will provide Client with written proof of Client's status as an additional insured in a form that is acceptable by Client. Each policy naming Client as additional insured must:

- Be an insurance policy from an A.M. Best rated "A-" or better insurer, licensed in New York State.
- State that PMA's coverage is primary and non-contributory coverage for Client, its Board, employees and volunteers with a waiver of subrogation in favor of the Client.

The certificate of insurance must describe the specific services provided by PMA that are covered by the applicable policies.

PMA hereby indemnifies Client for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of PMA, 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.

PMA acknowledges that failure to obtain the foregoing insurance on behalf of Client constitutes a material breach of contract. PMA must provide Client with proof satisfactory to Client that the above requirements have been met, prior to the commencement of work. The failure of Client 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 Client.

Client is a member/owner of the New York Schools Insurance Reciprocal ("NYSIR"). PMA acknowledges that the procurement of that insurance as required herein is intended to benefit not

only Client, but also NYSIR as Client's insurer.

25. 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).

26. CLIENT'S POLICIES

PMA certifies that it has reviewed and is familiar with the policies, rules and regulations of the Client including, but not limited to, the Client's anti-harassment and anti-discrimination policies and regulations (collectively, "the Policies"). PMA will ensure that its employees, representatives, agents and subcontractors and any other person providing Services or present on Client's property pursuant to this Agreement (collectively, "PMA'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>. PMA agrees that it will comply with the Policies and will cause PMA's Service Providers to do the same.

IF NEW YORK LABOR LAW SECTION 201-G IS APPLICABLE TO PMA, PMA 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 PMA or one of PMA's Service Providers has been subjected to harassment or discrimination while providing Services or while present on Client property pursuant to this Agreement must be reported immediately to the Deputy Superintendent (or to the Superintendent if the Deputy Superintendent is the subject of the allegation or concern). PMA confirms that it has notified PMA's Service Providers of this requirement.

27. MISCELLANEOUS

- a) **Governing Law; Jury Trial Waiver.** This Agreement and all disputes relating in any way to this Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its principles of conflicts of laws. Both parties agree to waive any right to have a jury participate in the resolution of any dispute or claim between the parties arising under the Agreement. Any dispute arising under this Agreement will be litigated in a New York State Court in Suffolk County, New York.
- b) **Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof, and supersedes all prior written or oral agreements, representations, warranties, negotiations, or understandings. The parties further represent and warrant that they have not relied on any representations, warranties or statements as an inducement to entering this Agreement other than what is expressly written herein. If PMA provides claims services for any Qualified Claim after the Qualified Claim exceeds the attachment point of any Client insurance policy, then (i) PMA shall comply with the terms of any such policy and the instructions of the insurance company issuing such policy and (ii) the terms of any agreement between the insurance company and PMA shall supersede the terms of this Agreement.

- c) **No Waiver.** No delay or omission on the part of any party in exercising any right hereunder will operate as a waiver of such right or of any other right under this Agreement. A waiver on any one occasion will not be construed as a bar to or waiver of any right or remedy on any other occasion.
- d) **Standard of Care.** PMA shall discharge its obligations under this Agreement with commercially reasonable care, skill, prudence and diligence.
- e) **Force Majeure.** The obligations of either PMA or the Client under this Agreement will be suspended for the duration of any force majeure applicable to that party. The term "force majeure" means any cause not reasonably within the control of the party claiming suspension, including without limitation, an act of God, industrial disturbance, war, riot, weather related disaster, earthquake, and/or governmental action. Client's obligation to fund its claims and expenses shall continue uninterrupted during this Agreement and shall not be subject to a force majeure event. The party claiming suspension pursuant to this section of the Agreement shall take all commercially reasonable steps to resume performance as soon as possible without incurring unreasonably excessive costs.
- f) **Severability.** The provisions of this Agreement are to be deemed severable, and the invalidity or unenforceability of any provision will, unless material and going to the essence of the Agreement as a whole, not affect or impair the remaining provisions which will continue in full force and effect.
- g) **Counterparts; Electronic Signature.** This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall constitute a single instrument. The intentional action in electronically signing this Agreement shall be evidence of consent to be legally bound by this Agreement. Further, the parties agree that this Agreement may be signed and/or transmitted by electronic mail of a .PDF document or electronic signature (e.g., DocuSign or similar electronic signature technology) and thereafter maintained in electronic form, and that such electronic record shall be valid and effective to bind the party so signing as a paper copy bearing such party's hand-written signature. The parties further consent and agree that the electronic signatures appearing on this Agreement shall be treated, for purpose of validity, enforceability and admissibility, the same as hand-written signatures. Each party agrees not to contest the admissibility or enforceability of the electronically signed copy of this Agreement in any proceeding arising out of this Agreement.
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- h) **Captions.** The captions and headings to the various Sections of this Agreement have been inserted for convenience of reference only, and shall not have the effect of amending or changing the express terms or provisions of this Agreement.
- i) **Ambiguities.** The parties agree that the terms and language of this Agreement are the result of detailed negotiations between the parties and, as a result, there shall be no presumption that any ambiguities in this Agreement shall be resolved against either party. Any controversy over the construction of this Agreement shall be decided in light of its business purposes, without regard to events of authorship or negotiation. In the event of any inconsistency or conflict between the terms or provisions of this Agreement and the terms or provisions of any other pre-existing or contemporaneous document or agreement as to the subject matter of this Agreement, the terms and provisions of this Agreement shall control and shall supersede the terms or provisions of such other document or agreement.
- j) **Calculation of Time.** All references herein to days shall be to calendar days, unless an express reference is made to business days. In the event the last day for compliance falls on a Saturday, Sunday, or Holiday, the period for compliance shall be deemed to include the following

business day.

- k) **Amendment.** Except as otherwise set forth in this Agreement, this Agreement will not be amended except as mutually agreed in a writing signed by both parties.
- l) **Use of Client Name and/or Logo.** During the term of this Agreement, Client authorizes PMA to utilize Client's name and/or logo in promotional or marketing efforts.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the day and year first written above.

PMA MANAGEMENT CORP.

**HAUPPAUGE UNION FREE
SCHOOL DISTRICT**

BY: _____

BY: _____

TITLE: _____

TITLE: _____

Exhibit A – Other Services Fee Schedule

All fees are billed as incurred unless specifically agreed otherwise.

<u>Service Type</u>	<u>Amount</u>
<u>Managed Care:</u>	
Bill review and repricing	20% of the total savings
Utilization review	\$125 per review
Clinical case management services	\$103.00 per hour
Medical consultant review	\$255 per review
PMA Care 24	\$103.00 per call
Point of Sale Pharmacy Program	\$75.00 per review
Medical Director	\$250 per hour
<u>Medicare Solutions</u>	
Section 111 Reporting	\$9.00 per claim queried
Medicare Set-Aside Allocation	\$2,200 each
CMS Submissions	\$630 each
Medicare Conditional Payment Research	\$130 each
Medicare Conditional Payment Appeal or Dispute	\$260 each
Medicare Conditional Payment Research Final Demand	\$55 each
Medical Cost Projections	\$1900 each
Evidenced Based MSA	\$2,200 each
Life Care Plan	\$185 per hour
Legal Nurse Review	\$1,900 per review
Update (of prior MSA report)	\$785 per report
Resolution Services	\$130 per hour
Medicare/Social Security Verification	\$205 each
Medicaid Conditional Payment Research	\$260 each
Provider Relations Specialist	\$110 per hour
<u>Information Systems:</u>	
RMIS fee	Included per year for up to 3 users \$500 per year each additional user
Customized Reporting/Programming	\$155.00 per hour
Standard Data Feed Set-Up	\$2,500 per year
Standard Data Feed	\$200 per month

<u>Risk Control:</u>	
General	\$135 per hour
Industrial hygiene services	\$180 per hour
Special Projects	To be determined
<u>Claim Adjustment:</u>	
Vocational Rehabilitation	\$103.00 per hour
Claim Indexing	\$19.75 per claim queried
<u>Other:</u>	
Administrative	Included
Non-standard claim intake	\$18 per claim
Subrogation Specialist Services	17% of gross recovery
Recover to At Work	\$110.00 per hour
Standard Data Extract (upon termination)	\$5,000
OSHA reporting preparation services	\$18 per incident \$1,500 annual minimum
OSHA special projects	To be determined
Each Claim Review in excess of two per year	\$1,500 per review, per day plus PMA expenses
Onsite claim review	Travel incurred by PMA personnel is reimbursed in full by the client



HAUPPAUGE PUBLIC SCHOOLS
495 Hoffman Lane, P.O. Box 6006, Hauppauge, New York 11788

Office of the Superintendent of Schools

MEMORANDUM

TO: Board of Education
FROM: Dr. Donald B. Murphy
RE: SCOPE Agreement 2022-2023
DATE: July 7, 2023

The following contract is being submitted for your review and approval:

Provider: SCOPE Education Services

Term: September 1, 2023 - August 31, 2024

Cost: \$3264.00 (Professional membership affiliation fees)

Services:

- Free services and Publications
- Professional Development Courses
- Conferences
- Customized Programs
- School Board Governance, Seminars and Workshops
- User-Free Programs
- Special Professional Learning Workshops/Presentations



**PROFESSIONAL MEMBERSHIP AFFILIATION AGREEMENT
BETWEEN SCOPE EDUCATION SERVICES
AND HAUPPAUGE UNION FREE SCHOOL DISTRICT**

By virtue of the Agreement and in consideration of the membership affiliation fees specified, SCOPE agrees to provide the services described below during the period covered by this agreement.

Benefits of Being a Member of SCOPE:

FREE SERVICES AND PUBLICATIONS

- Each member district will receive a **\$500 Scholarship** for a June 2024 graduating senior (Superintendent of member district selects recipient using their own criteria)
- Interim Employment Registry
- Child Care Needs Assessment
- On site free workshops/speakers bureau for students, staff and parents (**Free, 2 student or 1 adult workshop(s) for member districts each year**)
- Suffolk County School District Directory (1 copy for district office and each building) *
- Long Island Private and Parochial School Directory (1 copy)*
- Journal for Leadership and Instruction, a peer reviewed research journal (1 for each Superintendent and Building Principal) *
- Education Forum (copies for each board member, teacher and administrator)

* **Reduced rates on quantity orders**

PROFESSIONAL DEVELOPMENT COURSES

- **Reduced** tuition for all teachers and administrators in your district for in-service courses, seminars and symposiums

CONFERENCES

- **Reduced** tuition for board members, administrators and staff at all SCOPE conferences, seminars and workshops

CUSTOMIZED PROGRAMS

- **Reduced** fees for staff development programs, superintendent conference days, board seminars, workshops and special events

SCHOOL BOARD GOVERNANCE, SEMINARS AND WORKSHOPS

- **Reduced** tuition fees for all who attend from your district

SPECIAL INVITATION EVENTS

- Annual School District Awards Dinner for your district's outstanding board, community and school leaders at a reduced rate
- Annual Board Member/Superintendent Dinner Meeting

USER-FEE PROGRAMS

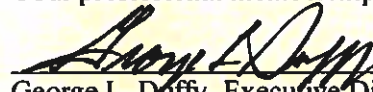
- | | |
|--|---|
| • Student Enrichment Programs: After School, Saturday and Summer | • Governance—School Board Workshops ** |
| • Child Care: Before and After School | • Child Abuse Identification & Violence Prevention Programs |
| • Universal Pre-Kindergarten Programs: SED Aided | • DASA Certification Courses |
| • SAT Prep Courses | • Teaching Assistant Training Workshops |
| • Management Studies ** | • Outdoor Education Programs |
| • Human Resources Audit** | |
| • Longitudinal Financial Analysis ** | |

SPECIAL PROFESSIONAL LEARNING WORKSHOPS/PRESENTATIONS

- Free attendance at special presentations by leaders in the field of education
- Conferences custom designed to meet the district's professional needs of leaders and educators in member districts

**** Available to member districts at a reduced rate**

Your professional membership affiliation fees for the 2023-2024 school year are **\$3,264**.


George L. Duffy, Executive Director
SCOPE Education Services

Dr. Donald Murphy, Superintendent
Hauppauge UFSD

Date: July 1, 2023

Date: _____

THE PROFESSIONAL FEES COVER THE PERIOD SEPTEMBER 1, 2023 – AUGUST 31, 2024.



HAUPPAUGE PUBLIC SCHOOLS

*Office of the Assistant Superintendent
Curriculum, Instruction and Technology*

TO: Catherine Freeman (Interim)
FROM: Chris Smalley
SUBJECT: Core BTS, Inc.
DATE: 7/12/2023

The following contract is being submitted for your review and approval:

Provider: Core BTS, Inc.
Term: 7/1/2023 - 6/30/2024
Service: District Software
Cost: \$18,120.00

 7/12/2023

CS:ts

CONTRACT

AGREEMENT effective as of the 11th day of July, 2023, between the HAUPPAUGE UNION FREE SCHOOL DISTRICT ("the District"), having its administrative offices at 495 Hoffman Lane, Hauppauge, New York 11788-2836, and **CORE BTS, INC.** ("the Contractor"), with a principal place of business at 5875 Castle Creek Parkway North Drive, Suite 320, Indianapolis, Indiana 46250.

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

1. **Retention:** Customer retains the Contractor and the Contractor agrees to provide the District with services set forth on attached Schedule A ("the Services"). Schedule A can be amended if approved, in writing, by the District's Superintendent or his or her designee.
2. **Compensation:** The District will compensate the Contractor at the following rates set forth on the attached Schedule A. Schedule A can be amended if approved, in writing, by the District's Superintendent or his or her designee. The District will pay the Contractor within 60 calendar days of its receipt, review and approval of the invoice.
3. **Term:** This Agreement is for Services provided from **July 1, 2023 to June 30, 2024**, unless this Agreement is terminated earlier as herein provided. The Contractor acknowledges that the District is under no obligation to renew this Agreement upon its expiration.
4. **Independent Contractor:** The Contractor is retained by the District only for the purposes and to the extent set forth in this Agreement. The Contractor's relation to the District is solely that of an independent contractor during the period of the Contractor's retention and delivery of Services hereunder.

Neither the Contractor 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 Contractor, the Contractor 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 Contractor 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 Contractor's Services hereunder, any breach of this Agreement or the Data Privacy Agreement (annexed hereto as Exhibit A) by the Contractor or the action of, or the failure to act by the Contractor, the Contractor's representatives or employees, or anyone for whose acts the Contractor 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

Contractor pursuant to the provisions of this Paragraph 5, the District will promptly notify the Contractor of the legal proceeding, claim or demand, and give the Contractor an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the Contractor in connection with the defense, which will be at the expense of the Contractor. In the event that the Contractor 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 Contractor 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 Contractor of a legal proceeding, claim or demand will not relieve the Contractor of any obligation that the Contractor has pursuant to this Paragraph 5 unless and only to the extent that the failure to notify the Contractor materially prejudices the Contractor.

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

7. Required Records: The Contractor 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 Contractor 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 Contractor 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 Contractor in connection with this Agreement.

9. District's Policies/Authority: The Contractor 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 Contractor 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, "Contractor'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 Contractor agrees that it will comply with the Policies and will cause Contractor's Service Providers to do the same.

THE CONTRACTOR 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 Contractor or one of Contractor'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 Deputy Superintendent for Personnel & Administration (or to the Superintendent if the Deputy Superintendent for Personnel & Administration is the subject of the allegation or concern). The Contractor confirms that it has notified the Contractor's Service Providers of this requirement.

The Contractor 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 Contractor will determine the manner of carrying out the Contractor's professional duties hereunder consistent with the Contractor's status as an independent contractor.

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

a. **Commercial General Liability Insurance**

\$1,000,000 per occurrence/\$2,000,000 general/complete operations aggregate (must include coverage for sexual misconduct). The general aggregate must apply on a per-project basis (where applicable).

b. **Automobile Liability Insurance**

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

c. **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

d. **Professional Errors and Omissions Insurance**

\$2,000,000 per occurrence/ \$2,000,000 aggregate for the professional acts of the Contractor 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 three calendar years following the completion of work.

e. **Cyber Liability**

\$2,000,000 per occurrence/ \$2,000,000 aggregate for the professional services of the Contractor performed pursuant to the Agreement. If the policy is written on a claims-made basis, the retroactive date must pre-date the inception of the Agreement. Coverage shall remain in effect for three years following the completion of work.

f. **Fidelity and Cyber Crime Insurance**

\$1,000,000 per claim with no aggregate. For dishonest acts of the Contractor's employees including coverage for computer fraud and fund transfer fraud. Covered property must also include the District's property.

g. **Excess Insurance**

\$3,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis over the general liability and professional liability coverages.

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

- be an insurance policy from an A.M. Best rated "A-" or better insurer, licensed in New York State; and
- state that the Contractor'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 Contractor will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Contractor will provide a copy of the policy endorsements and forms.

The Contractor hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Contractor, 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 Contractor acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract. The Contractor 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 Contractor will provide the District with a copy of the Contractor'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 Contractor 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.

11. Safeguarding Information: Neither the Contractor 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 Contractor of a breach by the Contractor 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 Contractor's breach of the Contractor's obligations to provide the insurance coverage set forth in Paragraph 10;

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

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

Upon termination of this Agreement "for cause," the Contractor is not entitled to any further payments hereunder.

B. This Agreement is automatically terminated upon the Contractor'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 Contractor which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph 12(B), the Contractor 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 Contractor. Upon termination of this Agreement for convenience by the District, the Contractor is entitled to receive all sums due, accrued and unpaid as of the date of termination.

D. This Agreement may be terminated by the Contractor for cause 15 calendar days after the

District has received written notice from the Contractor 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 Contractor and delivered to the District within 30 calendar days of the termination date.

13. 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:

<p><u>To the Contractor:</u></p> <p>CORE BTS, INC 5875 Castle Creek Parkway North Drive Suite 320 Indianapolis, Indiana 46250. Attn: General Counsel</p>	<p><u>To the District:</u></p> <p>Hauppauge Union Free School District 495 Hoffman Lane Hauppauge, NY 11788-2836 Attention: Assistant Superintendent for Business and Operations</p>
	<p><u>With a copy to:</u></p> <p>Lamb & Barnosky, LLP 534 Broadhollow Road, Suite 210 P.O. Box 9034 Melville, New York 11747 Attention: Eugene R. Barnosky, Esq.</p>

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.

14. Entire Agreement: This Agreement, the Data Privacy Agreement between the parties that is annexed to this Agreement, and any exhibits or riders to this Agreement or the Data Privacy Agreement contain 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.

15. 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.

16. 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.

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

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

19. 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.

20. 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).

21. Security and Protection of Personally Identifiable Information:

A. "District Data" means all information obtained by the Contractor from the District or by the Contractor in connection with the Services provided by the Contractor 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, except PII from student and personnel data which will be considered "District Data" regardless of whether or not it is made public.

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 in the school community, who does not have personal knowledge of the relevant circumstances to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or Contractor reasonably believes knows the identity of the person to whom a record relates.

C. The Contractor 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 Contractor represents and warrants that District Data received by the Contractor will be used only to perform Contractor's obligations pursuant to this Agreement and

for no other purpose.

E. The Contractor 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 Contractor pursuant to this Agreement) that is necessary to fulfill the Contractor'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 Contractor has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

G. If the Contractor has access to District Data that is subject to the Family Educational Rights and Privacy Act ("FERPA"), the Contractor 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 Contractor agrees to abide by the limitations and requirements imposed on school officials.

H. The Contractor must execute and deliver the Data Privacy Agreement annexed hereto as Exhibit A simultaneously with the execution and delivery of this Agreement.

I. All the provisions of this Paragraph 21 will survive the expiration or sooner termination of this Agreement.

22. **No End User Agreements:** In the event that the Consultant requires District employees or other End Users to enter into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, those agreements and/or understandings will be null, void and without effect, and the terms of this Agreement, the Data Privacy Agreement between the parties that is annexed to this Agreement, and any exhibits or riders to this Agreement or the Data Privacy 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 entered into this Agreement effective as of the date first above written.

HAUPPAUGE UNION FREE SCHOOL DISTRICT By: _____ Date: _____	[CONTRACTOR] CORE BTS, INC. By: <div>DocuSigned by: <i>Jason Eickmann</i> C6C32B7F87C74F2</div> _____ Date: 7/11/2023
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SCHEDULE A

[ATTACH DETAILED LIST OF SERVICES AND COSTS OR QUOTE]

***Detailed list of services, costs or quote as approved by Superintendent Designee**



SCHEDULE A

Bill To:
Hauppauge Union Free School
495 Hoffman Ln
Hauppauge, New York 11788-3102
United States

Ship To:
Hauppauge Union Free School
495 Hoffman Ln
Hauppauge, New York 11788-3102
United States

Quote Number: Q-55443
Quote Date: 06/27/2023
Expiration Date: 07/27/2023

Client: Hauppauge Union Free School
Account Number: 0007096
Payment Terms: Net 30
Primary Contact: Robert Wankmuller
Quote Name: Webair - 1 year renewal, monthly
billing

Quoted by: Scott Butler
P 908-566-0917 | E scott.butler@corebts.com
Account Manager: Christine Barrington
P 631-982-4761 | E christine.barrington@corebts.com

Qty	Item Number	Description	Term (Months)	Billing Frequency	Price	Ext Price
1	CORE-3CMS-OPTI9	Opti9 (formerly Webair)	12	Monthly	\$1,510.00	\$1,510.00
					Subtotal:	\$1,510.00
					First Invoice Amount:	\$1,510.00
					Quote Subtotal:	\$18,120.00
					Estimated Sales Tax:	\$0.00
					Quote Total:	\$18,120.00

Notes: NY1 1U Colocation:
WbA-0105, qty 1
IP Transit w/DDoS Mitigation:
WbA-1302, qty 25
IP Addresses:
OPTI-IP-ADDRESSES, qty 6
Copper Cross Connect @ NY1:
WbA-1412, qty 2
Virtual Private Cloud:
WbA-0501A, qty 16
VPC Memory:
WbA-0503A, qty 46
Hybrid SAN Storage:
WbA-0706A, qty 43
Microsoft Licensing - VPC:
WbA-1501, qty 3

Accepted by: _____ **Printed name:** _____ **Date:** _____

To ensure fastest processing, please send purchase order/signed quote to purchase.orders@corebts.com and CC the two individuals listed above or fax to (317) 573-1665. If changes are required, please request a revised quote. Thank you for your business!

By accepting this quote you agree to Core's Standard Terms and Conditions which can be found at <https://corebts.com/legal/T&C>.

This proposal is confidential, and shall not be used or disclosed, in whole or in part, for any purpose other than evaluation within the client organization. This quote shall expire on the "Expiration Date" above.

Notwithstanding the foregoing, all product and pricing information is based on the latest information available and is subject to change without notice, including at any time prior to the expiration of the quote. All prices are in U.S. dollars. Prices and tax rates are valid in the U.S. only and are subject to change. Sales tax is based on the "ship to" address on your purchase order. Please indicate your taxability status on your purchase order. Product availability is subject to change and cannot be guaranteed. All shipments are FOB destination. Appropriate freight charges will be added at the time of invoice. Please note that this quote may include items which may be subject to vendor restocking fees if returned, or may not be returnable if not defective (all returns are subject to vendor RMA approval). Core passes through all vendor restocking terms and fees without modification, markup, or additional fees. Some vendors do not allow cancellation of orders once placed; if Core is unable to cancel a vendor order, the customer shall have no right to cancel the order.

Cancellation of any licensing or services with a fixed term or indicated as non-cancellable shall incur a termination fee equal to 100% of the cost of the remainder of the term, payable to Core in full upon the effective termination date. If First Invoice Amount is less than the Quote Total this is due to the fact that some or all items have a billing frequency of more than one instance, please consult the billing frequency listed for each item. First Invoice Amount is estimated and may not include shipping/freight, estimated sales tax, and incidental charges.

EXHIBIT A

[ATTACH DATA PRIVACY AGREEMENT]

**HAUPPAUGE UNION FREE SCHOOL DISTRICT
DATA PRIVACY AGREEMENT**

Between

HAUPPAUGE UNION FREE SCHOOL DISTRICT

and

CORE BTS, INC.

This Data Privacy Agreement ("DPA") is by and between the Hauppauge Union Free School District ("the District") and **CORE BTS, INC.** ("the Contractor"), collectively, "the Parties."

ARTICLE I: DEFINITIONS

As used in this DPA, the following terms have the following meanings:

1. **Breach:** The unauthorized acquisition, access, use, or disclosure of Personally Identifiable Information of District Data, or a breach of the Contractor's security that leads to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personally Identifiable Information.
2. **Commercial or Marketing Purpose:** The sale, use or disclosure of Personally Identifiable Information for purposes of receiving remuneration, whether directly or indirectly; the sale, use or disclosure of Personally Identifiable Information for advertising purposes; or the sale, use or disclosure of Personally Identifiable Information to develop, improve or market products or services to students.
3. **Disclose:** To permit access to, or the release, transfer, or other communication of Personally Identifiable Information by any means, including oral, written or electronic, whether intended or unintended.
4. **District Data:** All information obtained by the Contractor from the District or by the Contractor in connection with the Services provided by the Contractor pursuant to the Service 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, except Personally Identifiable Information from student and personnel data which will be considered "District Data" regardless of whether or not it is made public.
5. **Education Record:** An education record as defined in the Family Educational Rights and Privacy Act and its implementing regulations, 20 U.S.C. 1232g and 34 C.F.R. Part 99, respectively.
6. **Educational Agency:** As defined in Education Law 2-d, a school district, board of cooperative educational services, School, or the New York State Education Department.
7. **Eligible Student:** A student who is eighteen years of age or older.
8. **Encrypt or Encryption:** As defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Security Rule at 45 CFR § 164.304, means the use of an algorithmic process to transform

Personally Identifiable Information into an unusable, unreadable, or indecipherable form in which there is a low probability of assigning meaning without use of a confidential process or key.

9. **NIST Cybersecurity Framework:** The U.S. Department of Commerce National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1.
10. **Parent:** A parent, legal guardian or person in parental relation to the Student.
11. **Personally Identifiable Information ("PII"):** Means personally identifiable information as defined in section 99.3 of Title 34 of the Code of Federal Regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C 1232g , and Teacher or Principal APPR Data, as defined below.
12. **Release:** Has the same meaning as Disclose.
13. **Service Agreement:** The agreement between the District and the Contractor with an effective date of **July 1, 2023**
14. **Services:** The services provided by the Contractor to the District pursuant to the Service Agreement.
15. **School:** Any public elementary or secondary school including a charter school, universal pre-kindergarten program authorized pursuant to Education Law § 3602-e, an approved provider of preschool special education, any other publicly funded pre-kindergarten program, a school serving children in a special act school district as defined in Education Law § 4001, an approved private school for the education of students with disabilities, a State-supported school subject to the provisions of Article 85 of the Education Law, or a State-operated school subject to the provisions of Articles 87 or 88 of the Education Law.
16. **Student:** Any person attending or seeking to enroll in an Educational Agency.
17. **Student Data:** Personally Identifiable Information as defined in section 99.3 of Title 34 of the Code of Federal Regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C 1232g. Personally Identifiable Information 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 in the District community who does not have personal knowledge of the relevant circumstances to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or the Contractor reasonably believes know the identity of the person to whom a record relates.
18. **Subcontractor:** The Contractor's non-employee agents, consultants and/or other persons or entities not employed by the Contractor who are engaged in the provision of Services pursuant to the Service Agreement.
19. **Teacher or Principal APPR Data:** Personally Identifiable Information from the records of an Educational Agency relating to the annual professional performance reviews of classroom teachers or principals that is confidential and not subject to Release pursuant to the provisions of Education Law §§ 3012-c and 3012-d.

ARTICLE II: PRIVACY AND SECURITY OF PII

1. Compliance with Law.

In order for the Contractor to provide Services to the District pursuant to the Service Agreement; the Contractor may receive District Data regulated by several New York and federal laws and regulations, among them, the Family Educational Rights and Privacy Act ("FERPA") at 20 U.S.C. § 1232g (34 CFR Part 99); Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. §§ 6501-6506 (16 CFR Part 312); Protection of Pupil Rights Amendment ("PPRA") at 20 U.S.C. § 1232h (34 CFR Part 98); the Individuals with Disabilities Education Act ("IDEA") at 20 U.S.C. § 1400 et seq. (34 CFR Part 300); New York Education Law § 2-d; and the Commissioner of Education's Regulations at 8 NYCRR Part 121. The Parties enter this DPA to address the requirements of New York law and to protect District Data. The Contractor agrees to maintain the confidentiality and security of District Data in accordance with applicable New York, federal and local laws, rules and regulations.

2. Authorized Use.

The Contractor has no property or licensing rights or claims of ownership to District Data, and the Contractor must not use District Data for any purpose other than to provide the Services set forth in the Service Agreement. The Contractor agrees that neither the Services provided to the District nor the manner in which the Services are provided by the Contractor will violate applicable New York, federal and local laws, rules and regulations.

If the Contractor has access to District Data that is subject to the Family Educational Rights and Privacy Act ("FERPA"), the Contractor 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.

3. Collection of Data.

The Contractor 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 the Services) that is necessary to fulfill the Contractor's duties pursuant to the Service Agreement.

4. Data Security and Privacy Plan.

The Contractor must adopt and maintain administrative, technical and physical safeguards, measures and controls to manage privacy and security risks and protect District Data in a manner that complies with New York, federal and local laws, rules and regulations and the District's policies. Education Law § 2-d requires that the Contractor provide the District with a Data Privacy and Security Plan that outlines such safeguards, measures and controls including how the Contractor will implement all applicable State, federal and local data security and privacy requirements. The Contractor's Data Security and Privacy Plan is attached to this DPA as Exhibit C and is incorporated into this DPA.

5. The District's Data Security and Privacy Policy

State law and regulation requires the District to adopt a data security and privacy policy that complies with Part 121 of the Regulations of the Commissioner of Education and aligns with the NIST Cyber Security Framework. The Contractor represents and warrants that it will comply with the District's data security and privacy policy and other applicable policies.

6. Right of Review and Audit.

Upon request by the District, the Contractor will provide the District with copies of its policies and related procedures that pertain to the protection of PII and District Data. The policies and procedures may be made available in a manner that does not violate Contractor's own information security policies, confidentiality obligations, and applicable laws. The Contractor may provide the District with a recent industry standard audit report performed by an independent third party on the Contractor's privacy and security practices as an alternative to undergoing an audit. The determination of whether the previously prepared audit report is "recent" will be determined by the District in its sole judgment.

7. Access to/Disclosure of District Data

- (a) The Contractor agrees that it will limit the Contractor's internal access to and only Disclose PII to the Contractor's officers, employees and Subcontractors who need to access the PII in order to provide the Services and that the disclosure of PII will be limited to the extent necessary to provide the Services pursuant to the Service Agreement. The Contractor must take all actions necessary to ensure that all its officers, employees and Subcontractors comply with the terms of this DPA.
- (b) The Contractor must ensure that each Subcontractor performing functions pursuant to the Service Agreement where the Subcontractor will receive or have access to District Data must be contractually bound by a written agreement that includes confidentiality and data security obligations equivalent to, consistent with, and no less protective than, those found in this DPA.
- (c) The Contractor must examine the data security and privacy measures of its Subcontractors prior to utilizing the Subcontractor to ensure compliance with this DPA. If at any point a Subcontractor fails to materially comply with the requirements of this DPA, the Contractor must: notify the District and prevent the Subcontractor's continued access to District Data; and, as applicable, retrieve all District Data received or stored by Subcontractor and/or ensure that District Data has been securely deleted and destroyed in accordance with this DPA. In the event there is an incident in which the Subcontractor compromises PII, the Contractor must follow the Data Breach reporting requirements set forth herein.
- (d) The Contractor will take full responsibility for the acts and omissions of its officers, employees and Subcontractors.
- (e) The Contractor must not Disclose District Data to any other party (a party other than the Contractor's officers or employees or Subcontractors who does not need access to the District Data to provide the Services pursuant to the Service Agreement) without the prior written consent of the District (if necessary, the District will obtain the required consent(s) from third parties) unless the disclosure is required by statute, court order or

subpoena, and the Contractor makes a reasonable effort to notify the District of the court order or subpoena in advance of compliance but in any case, provides notice to the District no later than the time the District Data is disclosed, unless such disclosure to the District is expressly prohibited by the statute, court order or subpoena.

- (f) Except as prohibited by law, the Contractor will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by the Contractor seeking District Data; (ii) consult with the District regarding the Contractor's 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 Contractor's response.
- (g) Upon the District's request, the Contractor agrees that it will promptly make any District Data held by the Contractor available to the District.

8. Training.

The Contractor must ensure that all its officers, employees and Subcontractors who have access to PII have received or will receive training on the federal and State laws governing confidentiality of the data prior to receiving access.

9. Term and Termination.

This DPA will be effective as of the date the Service Agreement is effective and will terminate on the termination of the Service Agreement. However, the obligations of the parties pursuant to this DPA will survive the expiration of the Service Agreement and will continue until the Contractor and Subcontractors no longer retain PII and no longer retain access to PII.

10. Data Return and Destruction of Data.

- (a) Protecting PII from unauthorized access and disclosure is of the utmost importance to the District, and the Contractor agrees that it is prohibited from retaining PII or continued access to PII or any copy, summary or extract of PII, on any storage medium (including, without limitation, in secure data centers and/or cloud-based facilities) whatsoever beyond the period of providing Services to the District, unless such retention is expressly authorized for a prescribed period by the Service Agreement or other written agreement between the Parties, expressly requested by the District for purposes of facilitating the transfer of PII to the District or expressly required by law. As applicable, upon expiration or termination of the Service Agreement, the Contractor will transfer PII, in a format agreed to by the Parties to the District.
- (b) If applicable, once the transfer of PII has been accomplished in accordance with the District's written election to do so, the Contractor agrees to return or destroy all PII when the purpose that necessitated its receipt by the Contractor has been completed. Thereafter, with regard to all PII (including without limitation, all hard copies, archived copies, electronic versions, or electronic imaging of hard copies) as well as any and all PII maintained on behalf of the Contractor in a secure data center and/or in cloud-based facilities that remain in the

possession of the Contractor or its Subcontractors, the Contractor will ensure that PII is securely deleted and/or destroyed in a manner that does not allow it to be retrieved or retrievable, read or reconstructed. Hard copy media must be shredded or destroyed such that PII cannot be read or otherwise reconstructed, and electronic media must be cleared, purged, or destroyed such that the PII cannot be retrieved. Only the destruction of paper PII, and not redaction, will satisfy the requirements for data destruction. Redaction is specifically excluded as a means of data destruction.

- (c) The Contractor will provide the District with a written certification of the secure deletion and/or destruction of PII held by the Contractor or Subcontractors.
- (d) To the extent that the Contractor and/or its Subcontractors continue to be in possession of any de-identified data (*i.e.*, data that has had all direct and indirect identifiers removed), the Contractor agrees not to attempt to re-identify de-identified data and not to transfer de-identified data to any party.

11. Commercial or Marketing Use Prohibition.

Contractor agrees that it will not sell PII or use or Disclose PII for a Commercial or Marketing Purpose.

12. Encryption.

The Contractor will use industry standard security measures including Encryption protocols that comply with New York law and regulations to preserve and protect PII. Contractor must Encrypt PII at rest and in transit in accordance with applicable New York laws and regulations.

13. Storage.

Contractor must store all District Data within the United States of America.

14. Breach.

- a. The Contractor must promptly notify the District of any Breach of PII in the most expedient way possible and without unreasonable delay and in no event more than seven calendar days after discovery of the Breach. Notifications required pursuant to this section must be in writing and by email (if email address is provided) and personal delivery or nationally recognized overnight carrier. Notifications must to the extent available, include a description of the Breach which includes the date of the incident and the date of discovery; the types of PII affected and the number of records affected; a description of Contractor's investigation; and the contact information for representatives who can assist the District. Violations of the requirement to notify the District are subject to civil penalty(ies) pursuant to Education Law § 2-d. The Breach of certain PII protected by Education Law §2-d may subject the Contractor to additional penalties.
- b. Notifications required to be made to the District pursuant to this paragraph must be sent to the following people at the following addresses:

Dr. Donald B. Murphy
Superintendent of Schools

Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Email: murphydo@hauppauge.k12.ny.us

Dr. Tim McCarthy
Data Protection Officer
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Email: mccarthyt@hauppauge.k12.ny.us

15. Cooperation with Investigations.

Contractor agrees that it will cooperate with the District and law enforcement, where necessary, in any investigations into a Breach. Any costs incidental to the required cooperation or participation of the Contractor or its' officers, employees or Subcontractors, as related to such investigations, will be the sole responsibility of the Contractor if the Breach is attributable to Contractor or its Subcontractors.

16. Notification to Individuals.

Where a Breach of PII occurs that is attributable to Contractor, Contractor will pay for or promptly reimburse the District for the full cost of the District's notification to Parents, Eligible Students, teachers, and/or principals, in accordance with Education Law § 2-d and 8 NYCRR Part 121.

ARTICLE III: PARENT AND ELIGIBLE STUDENT PROVISIONS

1. Parent and Eligible Student Access.

Education Law § 2-d and FERPA provide Parents and Eligible Students the right to inspect and review their child's or the Eligible Student's Student Data stored or maintained by the District. To the extent Student Data is held by the Contractor pursuant to the Service Agreement, the Contractor must respond within 20 calendar days to the District's requests for access to Student Data so the District can facilitate review by a Parent or Eligible Student, and facilitate corrections, as necessary. If a Parent or Eligible Student contacts Contractor directly to review any of the Student Data held by the Contractor pursuant to the Service Agreement, the Contractor must promptly notify the District and refer the Parent or Eligible Student to the District.

2. Bill of Rights for Data Privacy and Security.

As required by Education Law § 2-d, the Parents Bill of Rights for Data Privacy and Security and the supplemental information for the Service Agreement are annexed hereto as Exhibit A and Exhibit B, respectively, and incorporated into this DPA. The Contractor must complete and sign Exhibits A and B. Pursuant to Education Law § 2-d, the District is required to post the completed Exhibit B on its website.

ARTICLE IV: MISCELLANEOUS

1. Priority of Agreements and Precedence.

In the event of a conflict between and among the terms and conditions of this DPA, including all Exhibits attached hereto and incorporated herein and the Service Agreement, the terms and conditions of this DPA will govern and prevail, will survive the termination of the Service Agreement in the manner set forth herein, and supersedes all prior communications, representations, or agreements, oral or written, by the Parties relating thereto.

2. Execution.

This DPA may be executed in one or more counterparts, all of which will be considered one and the same document, as if all parties had executed a single original document, and may be executed utilizing an electronic signature and/ or electronic transmittal, and each signature thereto will be and constitute an original signature, as if all parties had executed a single original document.

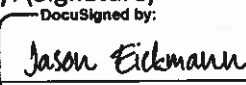
Hauppauge Union Free School District	CORE BTS, INC.
By: (Signature)	By: (Signature) <small>DocuSigned by:</small> 
David Barshay	(Printed Name) Jason Eickmann
President, Board of Education	(Title) SVP & General Counsel
Date:	Date: 7/11/2023

EXHIBIT A - Education Law § 2-d Parents' Bill of Rights for 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 Hauppauge Union Free School District is committed to ensuring the privacy of student personally identifiable information and recognizes that parents (including legal guardians or persons in parental relationships) and eligible students (students 18 years of age and older) are entitled to certain rights with regard to a student's personally identifiable information. 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 ("PII") cannot be sold or released for any commercial purposes. PII, as defined by Education Law § 2-d and the Family Educational Rights and Privacy Act ("FERPA"), includes direct identifiers such as a student's name or identification number, parent's name, or address; and indirect identifiers such as a student's date of birth, which when linked to or combined with other information can be used to distinguish or trace a student's identity. Please see FERPA's regulations at 34 CFR § 99.3 for a more complete definition.

2. Parents and/or eligible students have the right to inspect and review the complete contents of the student's education records stored or maintained by the District. This right may not apply to parents of an eligible student.
3. State and federal laws such as New York Education Law § 2-d, the Commissioner of Education's Regulations at 8 NYCRR Part 121, FERPA, the Children's Online Privacy Protection Act, the Protection of Pupil Rights Amendment, and the Individuals with Disabilities Education Act protect the confidentiality of a student's PII.

4. 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.
5. A complete list of all student data elements collected by the State is available for public review at www.nysed.gov/data-privacy-security/student-data-inventory and by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.
6. Parents have the right to have complaints about possible breaches and unauthorized disclosures of PII addressed.

- a. Complaints should be submitted to the District at: Dr. Tim McCarthy, District Data Protection Officer, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788, mccarthy@hauppauge.k12.ny.us, 631-761-8202.
 - b. Complaints may also be submitted to the New York State Education Department at: www.nysed.gov/data-privacy-security/report-improper-disclosure or by contacting the State's Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234, privacy@nysed.gov, 518-474-0937.
7. District contracts with vendors that receive PII will address statutory and regulatory data privacy and security requirements and will include supplemental information that provides:
 - a. The exclusive purposes for which student data or teacher or principal data will be used;
 - b. How the third party contractor will ensure that the subcontractors, persons or entities that the vendor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;
 - c. When the agreement expires and what happens to student data or teacher or principal data upon expiration of the agreement;
 - d. 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
 - e. 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 how such data will be encrypted.
8. Parents and/or eligible students have the right to be notified in accordance with applicable laws and regulations if a breach or unauthorized release of PII occurs.
9. District workers who handle PII will receive annual training on applicable federal and State laws, regulations, policies and safeguards which will be in alignment with industry standards and best practices to protect PII.

CORE BTS, INC.	DocuSigned by:
By: (Signature)	<i>Jason Eickmann</i>
(Printed Name)	Jason Eickmann
(Title)	SVP & General Counsel
Date:	7/11/2023

EXHIBIT B: BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

SUPPLEMENTAL INFORMATION FOR CONTRACTS THAT UTILIZE PERSONALLY IDENTIFIABLE INFORMATION

Pursuant to Education Law § 2-d and 8 NYCRR § 121.3, the District is required to post information to its website about its contracts with third-party contractors ("Service Agreements") that will receive Personally Identifiable Information ("PII") from Student Data or Teacher or Principal APPR Data.

CORE BTS, INC.	
Term of Service Agreement	Agreement Start Date: July 1, 2023 Agreement End Date: June 30, 2024
Description of the purpose(s) for which Contractor will receive/access/use PII	PII received by the Contractor will be received, accessed and used only to perform the Contractor's Services pursuant to the Service Agreement with the District. List Purposes: Disaster Recovery services provided for the specific systems identified by Hauppauge Union Free School District.
Type of PII that Contractor will receive/access	Check all that apply: <input checked="" type="checkbox"/> Student PII <input type="checkbox"/> Teacher or Principal APPR Data
Subcontractor Written Agreement Requirement	The Contractor will only share PII with entities or persons authorized by the Service Agreement. The Contractor will not utilize Subcontractors without written contracts that require the Subcontractors to adhere to, at a minimum, materially similar data protection obligations imposed on the contractor by state and federal laws and regulations, and the Service Agreement. Check applicable option. <input type="checkbox"/> Contractor will not utilize Subcontractors. <input checked="" type="checkbox"/> Contractor will utilize Subcontractors.

Data Transition and Secure Destruction	<p>Upon expiration or termination of the Service Agreement, the Contractor will, as directed by the District in writing:</p> <ul style="list-style-type: none"> Securely transfer data to District, or a successor contractor at the District's option and written discretion, in a format agreed to by the parties. Securely delete and destroy data by taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means.
Challenges to Data Accuracy	<p>Parents, students, teachers or principals who seek to challenge the accuracy of PII will do so by contacting the District. If a correction to data is deemed necessary, the District will notify the Contractor. The Contractor agrees to facilitate such corrections within 21 calendar days of receiving the District's written request.</p>
Secure Storage and Data Security	<p>The Contractor will store and process District Data in compliance with § 2-d(5) and applicable regulations of the Commissioner of Education, 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 Service Agreement. The Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.</p> <p>Please describe where PII will be stored and the security protections taken to ensure PII will be protected and data security and privacy risks mitigated in a manner that does not compromise the security of the data:</p> <p>(a) Storage of Electronic Data (check all that apply):</p> <p><input checked="" type="checkbox"/> Using a cloud or infrastructure owned and hosted by a third party.</p> <p><input type="checkbox"/> Using Contractor owned and hosted solution</p> <p><input type="checkbox"/> Other:</p> <p>(b) Storage of Non-Electronic Data: Not applicable, as such data not included in the Disaster Recovery</p>

	<p>services being provided.</p> <p>(c) Personnel/Workforce Security Measures: Not applicable, as such data not included in the Disaster Recovery services being provided.</p> <p>(d) Account Management and Access Control: Not applicable, as such data not included in the Disaster Recovery services being provided.</p> <p>(e) Physical Security Measures: Not applicable, as such data not included in the Disaster Recovery services being provided.</p> <p>(f) Other Security Measures: All data security and privacy risks will be mitigated per existing client protocols per executed contractual agreements.</p>
Encryption	Data will be encrypted while in motion and at rest.

CORE BTS, INC.	DocuSigned by:
By: (Signature)	<i>Jason Eickmann</i>
(Printed Name)	JASON EICKMANN
(Title)	SVP & General Counsel
Date:	7/11/2023

EXHIBIT C - CONTRACTOR'S DATA PRIVACY AND SECURITY PLAN

The Hauppauge Union Free School District is required to ensure that all contracts with a third-party contractor include a Data Security and Privacy Plan pursuant to Education Law § 2-d and Section 121.6 of the Commissioner's Regulations. The Contractor must complete the following or provide a plan that materially addresses its requirements, including alignment with the NIST Cybersecurity Framework, which is the standard for educational agency data privacy and security policies in New York State. The terms of the plan cannot conflict with any other terms of or Exhibits to the Data Privacy Agreement to which this Exhibit C is attached. **While this plan is not required to be posted to the District's website, contractors should nevertheless ensure that they do not include information that could compromise the security of their data and data systems. DO NOT LIMIT RESPONSES TO THE SPACES PROVIDED.**

1	Outline how you will implement applicable data security and privacy contract requirements over the life of the Contract	Per contractual agreements, the Disaster Recovery solution that is implemented will conform to all existing client protocols to meet requirements for data security and privacy.
2	Specify the administrative, operational and technical safeguards and practices that you have in place to protect PII.	Per contractual agreements, the Disaster Recovery solution that is implemented will conform to all existing client protocols to meet requirements for data security and privacy.
3	Specify how your officers, employees and Subcontractors who have access to PII pursuant to the Service Agreement will receive training on the federal and State laws that govern the confidentiality of PII.	All Core BTS employees receive periodic and ongoing security training via third party training modules and internal processes. Employees having access to PII will be made aware of federal and state laws that govern the confidentiality of PII.
4	Outline the processes that ensure that your officers, employees and Subcontractors are bound by written agreement to the requirements of the Service Agreement, at a minimum.	As all employees and subcontractors are aware they are bound by a Core BTS authorized signature on any/all contracts with clients. Copies of those contracts are then provided to all of the employees and subcontractors involved in any particular engagement for their reference.

5	Specify how you will manage any data security and privacy incidents that implicate PII and describe any specific plans you have in place to identify breaches and/or unauthorized disclosures, and to meet your obligations to report incidents to the District.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
6	Describe how data will be transitioned to the District when no longer needed by you to meet your contractual obligations, if applicable.	Upon termination any/all client data with be destroyed, per client policies then in place, and certification of this destruction will be supplied to the School District.
7	Describe your secure destruction practices and how certification will be provided to the District.	Upon termination any/all client data with be destroyed, per client policies then in place, and certification of this destruction will be supplied to the School District.
8	Outline how your data security and privacy program/practices align with the District's applicable policies.	As previously noted, per contractual agreements, the Disaster Recovery solution that is implemented will conform to all existing client protocols to meet requirements for data security and privacy.
9	Outline how your data security and privacy program/practices materially align with the NIST CSF v1.1 using the Framework chart below.	YOU MAY USE TEMPLATE BELOW

EXHIBIT C.1 – NIST CSF TABLE

The table below will aid the review of a Contractor's Data Privacy and Security Plan. Contractors should complete the Contractor Response sections in the table below to describe how their policies and practices align with each category in the Data Privacy and Security Plan template. To complete these 23 sections, a Contractor may: (i) Demonstrate alignment using the National Cybersecurity Review (NCSR) Maturity Scale of 1-7 ; (ii) Use a narrative to explain alignment (may reference its applicable policies); and/or (iii) Explain why a certain category may not apply to the transaction contemplated. Further informational references for each category can be found on the NIST website at <https://www.nist.gov/cyberframework/new-framework>. Please use additional pages if needed.

Function	Category	Contractor Response
IDENTIFY (ID)	Asset Management (ID.AM): The data, personnel, devices, systems, and facilities that enable the organization to achieve business purposes are identified and managed consistent with their relative importance to organizational objectives and the organization's risk strategy.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Business Environment (ID.BE): The organization's mission, objectives, stakeholders, and activities are understood and prioritized; this information is used to inform cybersecurity roles, responsibilities, and risk management decisions	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Governance (ID.GV): The policies, procedures, and processes to manage and monitor the organization's regulatory, legal, risk, environmental, and operational requirements are understood and inform the management of cybersecurity risk.	All of Core's policies are aligned with this understanding of "governance," as reflected throughout the entirety of the Corporate Security Policies document that is being submitted as part of this response.
	Risk Assessment (ID.RA): The organization understands the cybersecurity risk to organizational operations (including mission, functions, image, or reputation), organizational assets, and individuals.	All of Core's policies are aligned with this understanding of "risk assessment," as reflected throughout the entirety of the Corporate Security Policies document that is being submitted as part of this response.
	Risk Management Strategy (ID.RM): The organization's priorities, constraints, risk tolerances, and assumptions are	All of Core's policies are aligned with this understanding of "risk management strategy," as reflected throughout

	established and used to support operational risk decisions.	the entirety of the Corporate Security Policies document that is being submitted as part of this response.
	Supply Chain Risk Management (ID.SC): The organization's priorities, constraints, risk tolerances, and assumptions are established and used to support risk decisions associated with managing supply chain risk. The organization has established and implemented the processes to identify, assess and manage supply chain risks.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
PROJECT (PR)	Identity Management, Authentication and Access Control (PR.AC): Access to physical and logical assets and associated facilities is limited to authorized users, processes, and devices, and is managed consistent with the assessed risk of unauthorized access to authorized activities and transactions.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Awareness and Training (PR.AT): The organization's personnel and partners are provided cybersecurity awareness education and are trained to perform their cybersecurity-related duties and responsibilities consistent with related policies, procedures, and agreements.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Data Security (PR.DS): Information and records (data) are managed consistent with the organization's risk strategy to protect the confidentiality, integrity, and availability of information.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Information Protection Processes and Procedures (PR.IP): Security policies (that address purpose, scope, roles, responsibilities, management commitment, and coordination among organizational entities), processes, and procedures are maintained and used to manage protection of information systems and assets.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Maintenance (PR.MA): Maintenance and repairs of industrial control and information system components are performed consistent with policies and procedures.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Protective Technology (PR.PT): Technical security solutions are managed to ensure the security and resilience of systems and assets, consistent with related policies,	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.

	procedures, and agreements.	
DETECT (DE)	Anomalies and Events (DE.AE): Anomalous activity is detected and the potential impact of events is understood.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Security Continuous Monitoring (DE.CM): The information system and assets are monitored to identify cybersecurity events and verify the effectiveness of protective measures.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Detection Processes (DE.DP): Detection processes and procedures are maintained and tested to ensure awareness of anomalous events.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
RESPOND (RS)	Response Planning (RS.RP): Response processes and procedures are executed and maintained, to ensure response to detected cybersecurity incidents.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Communications (RS.CO): Response activities are coordinated with internal and external stakeholders (e.g. external support from law enforcement agencies).	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Analysis (RS.AN): Analysis is conducted to ensure effective response and support recovery activities.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Mitigation (RS.MI): Activities are performed to prevent expansion of an event, mitigate its effects, and resolve the incident.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Improvements (RS.IM): Organizational response activities are improved by incorporating lessons learned from current and previous detection/response activities.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
RECOVER (RC)	Recovery Planning (RC.RP): Recovery processes and procedures are executed and maintained to ensure restoration of systems or assets affected by cybersecurity incidents.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Improvements (RC.IM): Recovery planning and processes are improved by incorporating lessons learned into future activities.	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.
	Communications (RC.CO): Restoration activities are coordinated with internal and external parties (e.g. coordinating centers, Internet Service Providers, owners of attacking systems, victims, other	Please see the information provided in the Corporate Securities Policy document that is being submitted as part of this response.

	CSIRTs, and vendors).	
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HAUPPAUGE PUBLIC SCHOOLS

7.3. A.5

495 Hoffman Lane
P.O. Box 6006
Hauppauge, New York 11788

CATHERINE FREEMAN

Interim Assistant Superintendent for Business & Operations

TO: Board of Education

FROM: Catherine Freeman

RE: Living Word Church of God of Smithtown, Inc.

DATE: July 12, 2023

The 2023/2024 lease with the Living Word Church of God of Smithtown includes a 3% increase.

This LEASE (this "Lease") between the HAUPPAUGE UNION FREE SCHOOL DISTRICT, having its Administrative Office located at 495 Hoffman Lane, Hauppauge, New York 11788 ("Lessor" and/or "School District" and/or "District") and LIVING WORD CHURCH OF GOD OF SMITHTOWN, INC., a New York corporation having an office located at 65 Croft Lane, Smithtown, New York 11787 ("Lessee").

In consideration of the rent to be paid and all the covenants herein contained to be kept and performed by Lessee, Lessor hereby leases to Lessee and the Lessee hires from Lessor and agrees to take the demised premises hereinafter described, subject to the provisions of this agreement and all of the terms, covenants and conditions herein contained to wit: the following space at Whiporwil Elementary School 495 Hoffman Lane, Hauppauge, New York 11788: the auditorium, the gymnasium and classroom #32 (collectively, the foregoing space is hereinafter sometimes called "demised premises", "leased premises" and "premises").

Lessee will also be permitted during the term of this Lease to utilize, on a non-exclusive basis, the common areas and boys' and girls' bathrooms located most proximately to those portions of the premises referred to above and hereinafter, all of which taken together, will be deemed to constitute the demised premises.

Lessee will not use or permit or suffer the use of the premises contrary to any applicable statute, ordinance or regulation or in violation of any certificate of occupancy now in existence or hereafter issued in connection with the premises or in any manner which would cause structural injury or damage to the building.

Said leased premises are to be used and occupied only for the purposes of religious services, youth group meetings and Sunday school.

TERM/ACCESS

1. (a) The term of this Lease will commence on July 1, 2023 and terminate on June 30, 2024 (or until such term will sooner cease and expire as hereinafter provided).

(b) Lessor and Lessee will each have the right to cancel this Lease upon not less than three (3) months written notice to the other.

(c) Lessee's access to and use of the demised premises will be limited to the following days and hours:

- (i) the auditorium: for set up only on Fridays 4:00 p.m. to 6:00 and on Sundays, from 7:30 a.m. to 10:30 p.m.;
- (ii) the gymnasium: only on Sundays, from 7:30 a.m. to 1:30 p.m.;
and
- (iii) classroom #32: only on Sundays, from 7:30 a.m. to 1:30 p.m.

(d) Lessee may, from time to time, request to use the auditorium on certain additional dates and hours by giving Lessor no less than two (2) weeks' written notice. Notice must be by e-mail to Bridget Siena and Lorraine Stepnowski at Sienab@hauppauge.k12.ny.us and Stepnowski@hauppauge.k12.ny.us. Provided the auditorium is available on such requested dates and hours, and provided further that Lessee is not in default under the terms of this Lease, Lessee will be notified by reply e-mail whether it is entitled to use the auditorium. Such additional use will be subject to all of the terms of this Lease and such use will be charged as additional rent, as follows: Four Hundred Seventy Eight Dollars (\$478.00) for up to five (5) hours on a weekday; Five Hundred Eighty Four Dollars (\$584.00) for up to five (5) hours on a Saturday; Seventy Nine Dollars (\$79.00) for each additional hour over five (5) hours on a weekday; and One Hundred Six Dollars (\$106.00) for each additional hour on a Saturday. Such additional rent will be billed and payable together with the next monthly rent installment.

TITLE

2. The premises are leased subject to any and all covenants, restrictions, agreements, rights, reservations and easements of record, governmental laws, rules, regulations and order, including but not limited to such provisions of the Education Law regarding voter approval and/or approval of the Commissioner of Education as may be applicable.

RENT

3. The Lessee covenants to pay the Lessor at its principal office or at such place as Lessor will from time to time direct in writing at the monthly rate of Six Thousand Nine Hundred Fifty-Two and 00/100 Dollars (\$6,952.00) as and for rent for the leased premises ("monthly minimum rent").

(a) Lessee will pay the monthly minimum rent in equal monthly installments on the first day of each calendar month included in the term.

(b) All rent will be paid in lawful money of the United States which will be legal tender in payment of all debts and dues, public and private, at the time of payment, at the address of Lessor set forth in this Lease or at such other place as Lessor in writing may designate without (except as may be otherwise herein expressly provided) any set-off or deduction whatsoever and without any prior demand thereof.

(c) Should Lessor determine it needs to provide additional personnel at the premises on Sundays as a result of Lessee's use, it may charge Lessee as additional rent, the cost of such services, which is \$85.00 per hour, for a period not to exceed ten (10) hours on each Sunday. Such additional rent will be billed and payable together with the next monthly minimum rent installment.

(d) Unless another time will be herein expressly provided, any additional rent will become due and payable fourteen (14) calendar days from the date Lessee receives written notice of demand from the Lessor, or together with the next succeeding installment of monthly minimum rent, whichever will first occur; and Lessor will have the same remedies for failure to

pay the additional rent as for a non-payment of monthly minimum rent.

(e) From and after the fifteenth day after the due date of any payment of rent, Lessee will pay a late charge of five cents (\$0.05) for each One Dollar (\$1.00) of rent which is late. If payment of rent is not received within thirty (30) calendar days from the date it is due, interest will be charged upon said rent or any unpaid portion thereof at a rate of fifteen percent (15%) per annum from the original due date for payment thereof until rent is paid. If said rate of interest and/or late charges are found to be usurious, then Lessee will pay interest upon any unpaid rent or unpaid portion thereof at the maximum rate allowed by law.

(f) If Lessee defaults in making any payment required to be made by Lessee or in performing any obligation of Lessee under this Lease which will require the expenditure of money, Lessor may, but will not be obligated to make such payment on behalf of Lessee or expend such sum as may be necessary to perform or fulfill such obligation. Any sums so paid by Lessor will be deemed additional rent and will be due and payable to Lessor on demand.

CONDITION OF PREMISES

4. Lessee acknowledges that neither Lessor nor its agents have made any representations with respect to the buildings, or the land upon which it is erected, and no rights, easements or licenses are acquired by Lessee by implication or otherwise, except as expressly set forth in the provision of this Lease, if any. The taking of possession by Lessee will be conclusive evidence that Lessee accepts the same in its present "as is" condition and that the premises and building were in good condition at the time possession was taken, and Lessor will not be required to do any work or alterations in the premises unless agreed upon by the District.

Lessee expressly acknowledges that, while Lessor may maintain any existing electronic surveillance/monitoring system in the building, Lessor will not be required to do so or to otherwise provide security for the premises and Lessor will not be held accountable for having done so or failing to do so.

REPAIRS, MAINTENANCE, FLOOR LOADS AND RESTRICTIONS

5. (a) During the times of Lessee's use of the demised premises, Lessee will at all times keep and maintain the demised premises in good order, condition and repair, clean and free of debris.

(b) During the term of this Lease, Lessor will make all repairs to the interior of the demised premises, the roof, exterior walls, interior walls and foundation of the premises, will maintain and repair the electrical, heating and plumbing systems and equipment; provided, however, that structural and other repairs required as a result of the acts (including installation(s) of equipment or alterations made by or on account of Lessee's occupancy) or negligence of Lessee, its agents, officers, employees, patrons, invitees will be the responsibility of Lessee, the expense and cost of which repairs will be due and payable by Lessee to Lessor as additional rent.

Lessor will be responsible for snow plowing of the parking area and sidewalks.

During times of extreme weather conditions (e.g., blizzard, state of emergency, hurricane), Lessor may not be able to give access to the building or clear the parking area and sidewalks; the same will neither be a default nor actionable hereunder.

Lessor will have the option of performing any maintenance and/or repairs for which Lessee is responsible, for the account of Lessee, at Lessee's expense and the cost thereof will be due and payable by Lessee to Lessor as rent provided that (absent emergency) ten (10) calendar days prior written notice is given to Lessee.

(c) Lessor will not be required to commence any repairs required to be performed by it until after notice from Lessee that same are necessary, which notice, except in the case of an emergency, will be in writing and will permit Lessor ten (10) calendar days in which to commence such repair. When necessary, by reason of accident or casualty occurring in the building or at the premises or on the property, or in order to make any repairs, alterations or improvements in or relating to the building or the premises, Lessor reserves the right to interrupt temporarily, and except in an emergency, on written notice to Lessee, the supply of utility services until said repairs, alterations or improvements will have been completed. There will be no abatement in rent because of any such interruption if Lessor will pursue such work with reasonable diligence and dispatch.

(d) Lessee must not place a load upon any floor of the premises which exceeds the floor load per square foot area which such floor was designed to carry. Business machines and mechanical equipment used by Lessee which causes vibration or noise will be placed and maintained by Lessee, at its expense, in settings of cork, rubber or spring-type vibration eliminators sufficient to eliminate such vibration or noise.

(e) Lessee will comply with the following restrictions with respect to the premises:

(i) Lessee will store all trash and refuse in appropriate sealed and covered containers provided for that purpose by the Lessor.

(ii) Lessee will receive all deliveries, load and unload goods, merchandise, supplies, fixtures, equipment, furniture and rubbish only through proper service doors and loading docks serving the building, but in no event through the main front entrance thereof.

(iii) Lessee will not place or install or suffer to be placed or installed any sign upon the building or the premises unless such sign will first be approved in writing by Lessor, such approval not to be unreasonably withheld, delayed or conditioned, and permit therefore obtained from the Town of Islip, if required. Without limiting the aforesaid, all signs or lettering on or about the premises or the building will be neat and of reasonable size and in conformity with all local ordinances and requirements. Furthermore, all signs must be temporary and removed after each evening.

(f) Lessee must immediately remove any and all " graffiti" from the

demised premises as a result of any of its staff, congregants, students, employees, invitees or agents. In the event same is not removed within forty-eight (48) hours of notification by the Lessor and demand that same be removed, the Lessor may remove same in which case any and all expenses of such removal will be due and payable within fourteen (14) calendar days from written demand as additional rent. The Lessor will deliver the premises clean from all "graffiti."

(g) Lessee will be solely and exclusively responsible for the supervision and actions of those on the premises in connection with or on account of Lessee's activities.

(h) Lessee will avoid in its advertising and elsewhere any indication or appearance that its operation is sponsored by or in any other way associated with the School District. All advertising will include affirmative statement that Lessee is not part of the School District and notice to the same effect will be prominently displayed on the premises at all times.

LESSEE'S ALTERATIONS

6. Lessee will not make any alterations/modifications/additions of any kind or nature in or to the premises or the building without Lessor's prior written consent in each instance. The Lessee further acknowledges that, because the facility in which the demised premises are located is subject to the regulation of the NYS Education Department ("NYSED"), the approval by NYSED of plans and specifications will typically be required.

If it is mutually agreed that approved renovations will be performed by the Lessor for the Lessee, then the Lessee will pay the Lessor for said work and materials on the basis of cost, including labor and material and fees of the District architect in connection therewith, plus ten percent (10%). Lessee will pay for all such alterations/modifications/additions and may, at Lessor's discretion, be required to make deposit(s) against the cost of same as a condition of Lessor's undertaking and/or completing same.

UTILITIES/HEAT

7. Electricity, heat (minimum 68°F during Lessee's operating hours) and water for use of the Lessee will be supplied by the Lessor through the existing facilities of the building. The Lessor will not be responsible for providing air conditioning in the demised premises.

REQUIREMENTS OF LAW

8. (a) Lessee will promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements (including those which require structural alterations) of the federal, State, county and local government and of any and all their departments and bureaus applicable to the premises and will also promptly comply with and execute all rules, orders and regulations of the New York Board of Fire Underwriters for the prevention of fires at the Lessee's own cost and expense.

(b) Lessee will not occupy or use or permit or suffer the premises or any part thereof to be occupied or used for any unlawful or illegal business, use of purposes, nor for any

business, use or purpose deemed by Lessor to be disreputable or extra-hazardous nor in such manner as to constitute nuisance of any kind, nor for any purpose or in any way in violation of any present or future laws, rules, requirements, orders, directions, ordinances or regulations of the United States of America, or of the State, County or Local Government, or other municipal, governmental or lawful authority whatsoever. Lessee will immediately upon the discovery of any such unlawful, illegal, disreputable or extra-hazardous use, take all necessary steps, legal and equitable, to compel the discontinuance of such use and to oust and remove any sub-lessees, occupants or other persons guilty of such unlawful, illegal, disreputable extra-hazardous use.

Lessee will indemnify and save harmless the Lessor from and against any and all cost, expense, claim, loss, damage, judgment, liability, suit, fine or penalty, including reasonable counsel fees, rising out of or by reason of or on account of any violation of or in default in the provisions of this paragraph.

(c) During the times of Lessee's use of the demised premises: Lessee will keep or cause the premises to be kept free of hazardous materials (not presently existing on the premises). Without limiting the foregoing, Lessee will not cause or permit the premises, during the times of its use, to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process hazardous materials, except in compliance with all applicable federal, State and local laws or regulations, nor will Lessee cause or permit, as a result of any intentional or unintentional act or omission on the part of Lessee or any sub-lessee, a release of hazardous materials onto the premises or onto any other property. Lessee will comply with and ensure compliance by all sub-lessees with all applicable federal, State and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and will obtain and comply with, and ensure that all sub-lessees obtain and comply with, any and all approvals, registrations or permits required thereunder.

(d) To the fullest extent permitted by law, Lessee will conduct and complete all investigations, studies, samplings, and testing, and all remedial removal, and other actions necessary to clean up and remove all hazardous materials, on, from or affecting the premises, to the extent such hazardous materials exist as a result of Lessee's use of the demised premises:

(i) in accordance with all applicable federal, State and local laws, ordinances, rules, regulations, and policies;

(ii) to the satisfaction of Lessor; and

(iii) in accordance with the orders and directives of all federal, State and local governmental authorities.

(e) Lessee will defend, indemnify, and hold harmless Lessor, its employees, agents and members of the Board of Education, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, to the extent such hazardous materials exist as a result of Lessee's use of the demised premises:

(i) the presence, disposal, release or threatened release of any hazardous materials which are on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise, to the extent such hazardous materials exist as a result of Lessee's use of the demised premises;

(ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous materials;

(iii) any lawsuit brought or threatened, settlement reached, or governmental order relating to such hazardous materials; and/or

(iv) any violation of laws, orders, regulations, requirements, or demands of government authorities, or any policies or requirements of Lessor which are based upon or in any way related to such hazardous materials, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses.

(f) In the event this Lease is terminated, or Lessee is dispossessed, evicted or ejected from the demised premises, Lessee will deliver the premises to Lessor free of any and all hazardous materials, to the extent such hazardous materials exist as a result of Lessee's use of the demised premises, so that the conditions of the premises will conform to all applicable federal, State and local laws, ordinances, rules or regulations affecting the premises. For purposes of this paragraph "Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 5101, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, State or local environmental law, ordinance, rule, or regulation.

INSURANCE

9. The Lessee will obtain and keep in full force and effect during the term of this Lease, at the Lessee's sole cost and expense, the following insurance:

- **Commercial General Liability Insurance:**
 - \$2,000,000 per occurrence/\$2,000,000 aggregate on a per location basis
 - \$2,000,000 products and completed operations
 - \$1,000,000 personal and advertising injury
 - \$500,000 damage to demised premises each occurrence limit
 - \$100,000 fire damage
 - \$10,000 medical expense
- **Umbrella/Excess Insurance:** \$3 million each Occurrence and Aggregate.
Umbrella/Excess coverage *must* be on a follow-form basis or provide broader

coverage over the required general liability coverage.

- **Property Insurance:** It is up to the Lessee and its insurance representative to determine the coverage necessary to cover the Lessee's business personal property, improvements and betterments and extra expense. The deductible must not exceed \$1,000. The policy *must* contain a waiver of subrogation in favor of the District.

(a) Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Lessee hereby agrees to effectuate the naming of the Lessor as an additional insured on Lessee's insurance policies, with the exception of workers' compensation and N.Y. State Disability insurance. Each policy naming the Lessor as an additional insured must:

- be an insurance policy from an **A.M. Best A-** rated or better insurer, licensed to conduct business in New York State; and
- state that the Lessor's coverage is primary and noncontributory coverage for the Lessor, its Board, employees and volunteers with a waiver of subrogation in favor of the Lessor.

(b) The Lessor must be listed as an additional insured by using standard or other endorsements that extend coverage to the Lessor (CG 20 26) or equivalent. The decision to accept an endorsement rests solely with the Lessor. A completed copy of the endorsement(s) must be attached to the certificate of insurance. At the Lessor's request, the Lessee will provide a copy of the declaration page of the liability and umbrella/excess policies with a list of endorsements and forms. If requested, the Lessee will provide a copy of the policy endorsements and forms.

(c) The Lessee agrees to indemnify and hold harmless the Lessor for applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Lessee, to the extent not covered by the applicable policy.

(d) The Lessee acknowledges that failure to obtain the foregoing insurance on behalf of the Lessor constitutes a material breach of contract. The Lessee must provide the Lessor with proof satisfactory to the Lessor that the above requirements have been met prior to the commencement of the term of this Lease. The failure of the Lessor 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 Lessor. Upon request, the Lessee will provide the Lessor with a copy of the Lessee's applicable insurance policies including any endorsements, modifications, or exclusions thereto.

DAMAGE OR DESTRUCTION

10. (a) If the building is damaged or destroyed to the extent of ten percent (10%) or more of the then replacement value thereof, exclusive of foundations, by any cause or should the damage be occasioned by a casualty for which there was no insurance, Lessor will have the

right to terminate this Lease on written notice to Lessee served within sixty (60) calendar days after such damage or destruction.

(b) If the building is damaged to the extent of ten percent (10%) or less of the cost of replacement thereof, or damaged by any uninsured casualty, Lessor will have the option to rebuild or terminate this Lease to be exercised by notice to Lessee given not more than forty-five (45) calendar days from the date of such damage. If Lessor elects to rebuild, Lessor will, at its expense, with due diligence, repair and rebuild the structure of the premises to substantially the condition it was in immediately prior to such damage or destruction. The parties will promptly commence and diligently proceed with their restoration obligations hereunder.

(c) The provisions of this Article 10 will be considered an express agreement governing any case of damage or destruction of the Building or the demised premises within the Building by fire or other casualty and Section 227 of the Real Property Law of the State of New York and any other law of like import now or hereafter in force providing for such contingency will have no application.

INDEMNIFICATION

11. (a) To the fullest extent permitted by law, Lessee will indemnify, defend, save and hold Lessor, its employees, agents, representatives and members of the Board of Education, harmless from and against any and all liability, loss, damage, expense, cause of action, suit, proceeding or claim of any kind and nature, judgment and award including, but not limited to, costs, expenses and counsel fees that are paid by, imposed upon, incurred by or asserted against Lessor, its employees, agents, representatives or any members of the Board of Education arising out of or based upon, related to or in any way connected with the use or occupancy of the premises by Lessee or the conduct or operation of Lessee's business unless such injury, loss, claim or damage is attributable solely to the negligence or misconduct of Lessor or its agents, servants or employees.

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 Lessee pursuant to the provisions of this Agreement, the Lessor will promptly notify the Lessee of the legal proceeding, claim or demand, and give the Lessee an opportunity to defend and settle same without any cost to the Lessor, and will extend reasonable cooperation to the Lessee in connection with the defense, which will be at the expense of the Lessee. In the event that the Lessee fails to defend the same within thirty (30) calendar days of receipt of the notice, the Lessor will be entitled to assume the defense thereof, and the Lessee will be liable to repay the Lessor 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 Lessor to notify the Lessee of a legal proceeding, claim or demand will not relieve the Lessee of any obligation that the Lessee has pursuant to this Paragraph unless and only to the extent that the failure to notify the Lessee materially prejudices the Lessee.

The Lessee 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 Lessor (which consent will not be unreasonably withheld).

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

(b) Lessee acknowledges that Lessor is an educational corporation. Accordingly, Lessee acknowledges that no officer, director, agent or Board of Education member of Lessor will be personally liable under the terms and conditions of this Lease. Lessee agrees to look solely to the corporate entity and its assets for satisfaction of any claims, liability or judgment arising hereunder.

EMINENT DOMAIN

12. (a) If at any time during the term of this Lease, the whole of the premises, or any part of the building will be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain, the Lessor will be entitled to and will receive any and all awards that may be made in any such proceeding; and the Lessee hereby assigns and transfers to the Lessor any and all such awards that may be made to Lessee.

The Lessee will not be entitled to any payment based *inter alia* upon the value of the unexpired term of this Lease, consequential damage to the land not so taken, fixtures, or alterations to the premises or their use or otherwise.

(b) If such proceedings will result in the taking of the whole premises or any part of the building, this Lease and the term hereof will terminate and expire on the date of such taking, and the basic rent, additional rent, and other sums or charges provided in this Lease to be paid by the Lessee will be apportioned and paid to the date of such taking.

(c) If only the land will be taken in such proceedings, this Lease will terminate only as to the portion of the land so taken, and this Lease will continue in full force and effect for the balance of its term as to the part of the premises remaining, without any reduction or abatement or effect upon the term hereof of the liability of the Lessee to pay in full the basic rent, the additional rent and all other sums and charges to be paid by Lessee.

RIGHT TO SUBLET OR ASSIGN

13. The Lessee covenants that it will not assign this Lease or sublease the premises or any part thereof or permit the same to be used or occupied other than by Lessee without the prior written consent of Lessor in each instance. Lessee acknowledges and agrees that Lessor may withhold its consent for any reason whatsoever, or no reason, to an assignment of this Lease or sublet of the premises.

PERSONAL PROPERTY

14. Lessee will be permitted to store its personal property, furniture and equipment

("Lessee's Stored Property") in an area to be designated by Lessor on the stage in the Auditorium. Such storage will be at Lessee's sole risk, and Lessor will not be liable for any injury to property or loss by theft or damage or otherwise to Lessee's Stored Property or from any other cause whatsoever. Lessor and Lessor's agents, employees and members of the Board of Education will not be liable for, and Lessee waives all claims for, loss or damage to Lessee's Stored Property sustained by Lessee resulting from any accident, theft or other occurrence in or upon the premises

BANKRUPTCY

15. If, at any time prior to the commencement of the term of this Lease, or if at any time during the term there will be filed by or against Lessee in any court, pursuant to any statute, either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's property, and within thirty (30) calendar days thereof Lessee fails to secure a discharge thereof or if Lessee makes an assignment for the benefit of creditors or petition for or enters into an arrangement, this Lease, at the option of Lessor, exercised within a reasonable time after notice of the happening of any one or more of such events, may be canceled and terminated, in which event neither Lessee, nor any person claiming through or under Lessee, by virtue of any statute or of an order of any court will be entitled to possession or to remain in possession of the premises but will forthwith quit and surrender the premises, and Lessor, in addition to any other rights, may retain any rent, security, deposit or monies received by it from Lessee or others on behalf of Lessee as partial liquidated damages.

DEFAULT

16. (a) It is expressly understood and agreed that: (i) if Lessee fails to pay any installment of rent, or any additional rent or other charges as and when the same are required to be paid hereunder; (ii) if Lessee deserts or vacates the demised premises; (iii) if, without the consent of the Lessor, the Lessee sells, assigns, or mortgages this Lease; (iv) if the Lessee fails 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 their departments and bureaus, including the NYS Education Department, applicable to said premises; (v) if any execution or attachment will be issued against Lessee or any of Lessee's property whereupon the premises will be taken or occupied or attempted to be taken or occupied by someone other than Lessee; (vi) if Lessee dissolves or liquidates or commences to dissolve or liquidate; (vii) if Lessee files or there is filed against Lessee a petition in bankruptcy or arrangement for the benefit of creditors or to take advantage of any insolvency act; or (viii) if Lessee defaults in fulfilling any of the other covenants of this Lease and such default will continue for a period of thirty (30) calendar days after written notice, or if the said default or omission complained of will be of such a nature that the same cannot be completely cured or remedied within said thirty (30) calendar-day period, and if Lessee will not have diligently commenced curing such default within such thirty (30) calendar-day period, and will not thereafter with reasonable diligence and in good faith proceed to remedy or cure such default, then, in any one or more of such events, the Lessor may, if the Lessor so elects, at any time thereafter: (a) without notice, re-enter the premises either by force or otherwise, and dispossess Lessee or other occupant by summary proceedings or otherwise,

and remove their effects and hold the premises as if this Lease had not been made, and Lessee hereby waives the service of notice of intention to re-enter or to institute legal proceedings to that end; and/or (b) terminate this Lease and the term hereof, on giving to the Lessee five (5) calendar days' notice in writing of the Lessor's intention so to do, and this Lease and the term hereof will expire and come to an end on the date fixed in such notice as if the said date were the date originally fixed in this Lease for the expiration hereof and Lessee will then quit and surrender the premises to Lessor but Lessee will remain liable as hereinafter provided.

(b) Should Lessor be unable to comply with any of the terms and conditions and/or its obligations hereunder by reason of any law, ordinance, governmental pre-emption, moratorium or declaration, of any governmental authority having jurisdiction, such failure will not be deemed a default hereunder.

DAMAGES

17. (a) If this Lease and the demised term expires and comes to an end by or under any summary proceeding, or any other action or proceeding or if Lessor re-enters the premises, by or under any summary proceedings or any other action or proceeding, then, in any of said events, Lessee will pay to Lessor all rent, additional rent and other charges payable under this Lease by Lessee to Lessor to the date upon which this Lease and the demised term will have expired and come to an end or to the date of re-entry upon the premises by Lessor, as the case may be.

(b) In the event that the relation of the Lessor and Lessee may cease or terminate by reason of the termination of the lease, re-entry of the Lessor under the terms and covenants contained in this Lease or by eviction or ejectment of the Lessee by summary proceedings or otherwise or after abandonment of the premises by the Lessee, it is hereby agreed that the Lessee will remain liable and will pay in monthly payments the rent which accrues subsequent to the reentry by the Lessor, and the Lessee expressly agrees to pay as damages for the breach of the covenants herein contained, the difference between the rent reserved and the rent collected and received, if any, by the Lessor during the remainder of the expired term, such difference or deficiency between the rent herein reserved and the rent collected if any, will become due and payable in monthly payments during the remainder of the original term, as the amounts of such difference or deficiency will from time to time be ascertained; and it is mutually agreed between Lessor and Lessee that the respective parties hereto will and hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties against the other on any matters whatsoever arising out of or in any way connected with this Lease, the Lessee's use or occupancy of said premises, and/or any claim of injury or damage.

ATTORNEY'S FEES

18. If Lessee is at any time in default hereunder beyond the expiration of any applicable cure period, and if Lessor institutes an action or summary proceeding against Lessee based upon such default and Lessor is successful or the action or summary proceeding is voluntarily resolved by the parties, then Lessee will reimburse Lessor for the reasonable expenses of attorney's fees and disbursements incurred by Lessor in connection with the action

or summary proceeding. The amount of such expenses will be deemed to be "additional rent" hereunder and included in any judgment awarded to the Lessor. Such expenses and/or disbursements will be due from Lessee to Lessor: (i) on the first day of the month following the incurring of such expenses, or (ii) as agreed upon by the parties in any agreement resolving the action or proceeding.

WAIVER OF REDEMPTION, COUNTERCLAIM, TRIAL BY JURY

19. Lessee hereby expressly: (i) waives any and all rights of redemption granted by or under any present or future laws in the event of Lessee being evicted or dispossessed for any cause, or in the event of Lessor obtaining possession of the premises, by reason of the violation by Lessee or any of the covenants and conditions of this Lease or otherwise; and (ii) waives all rights to stay summary proceedings or any action based on non-payment of rent or any other payments or charges required to be made by Lessee to Lessor. Lessor and Lessee hereby waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other with respect to any matters arising out of or connected with this Lease, the relationship of Lessor and Lessee, Lessee's use or occupancy of the premises, and/or any claim of injury or damage and any emergency statutory or any other statutory remedy.

NO WAIVER

20. No act or thing done by Lessor or Lessor's agents during the term hereby demised will be deemed in acceptance of a surrender of the premises, and no agreement to accept such surrender will be valid unless in writing signed by Lessor. No employee of Lessor or of Lessor's agents will have any power to accept the keys of the premises prior to the termination of the Lease. The delivery of keys to any employee of Lessor or of Lessor's agents will not operate as a termination of the Lease or a surrender of the premises. The failure of Lessor to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Lease, will not prevent a subsequent act, which would have originally constituted a violation from having all the force and effect of an original violation. The receipt by Lessor of rent with knowledge of the breach of any covenant of this Lease will not be deemed a waiver of such breach. No provision of this Lease will be deemed to have been waived by Lessor unless such waiver is in writing signed by Lessor. The words "re-enter" and "re-entry" as used herein are not restricted to their technical legal meaning.

END OF TERM

21. On the last day of the term hereof or on the earlier termination thereof, Lessee will peaceably and quietly leave, surrender and deliver the premises up to Lessor, broom clean, and, pursuant to the requirement imposed by Section 403-a of the Education Law. Lessee will be obligated to restore the demised premises to its original condition less depreciation, provided that Lessor may waive such requirement if Lessee has made improvement to the demised premises which may not be removed without causing substantial damage to the demised premises. In addition, Lessee will remove all of its personal property from the demised premises and any property not so removed will be deemed to have been abandoned and may be appropriated, sold, stored, destroyed or otherwise disposed of by Lessor without notice of Lessee

and without obligation to account therefor. Lessee's obligations under this Article 21 will survive the expiration of other termination of this Lease.

BROKER

22. Lessee represents that it dealt with no broker in connection with the negotiation or bringing about of this Lease. Lessee agrees that if any claim is made for a commission by any broker, by, through or on account of any act of Lessee, Lessee will hold Lessor free and harmless from any and all judgments, costs, causes of action, fee liabilities and expenses in connection therewith, including Lessor's reasonable attorney's fees.

QUIET ENJOYMENT

23. Lessor covenants that if and so long as Lessee pays the rent, and additional rent, and other charges reserved by this Lease, and performs all the terms, covenants and conditions of this Lease on the part of Lessee to be performed, Lessee will quietly enjoy the premises subject, however to the terms of this Lease and of any interest to which this Lease by its terms is subject.

NONLIABILITY OF LESSOR

24. (a) Lessor and Lessor's agents, employees and members of the Board of Education will not be liable for, and Lessee waives all claims for, loss or damage to Lessee's business or damage to person or property sustained by Lessee resulting from any accident or occurrence (unless caused by or resulting from the negligence or misconduct of Lessor, its agents, servants or employees other than accidents or occurrences against which Lessee is insured) in or upon the premises, including, but not limited to claims for damage resulting from:

- (i) any equipment or appurtenances becoming out of repair;
- (ii) injury done or occasioned by wind;
- (iii) any defect in or failure of plumbing, heating or air conditioning equipment, electric wiring or installation thereof, gas, water and steam pipes, stairs, porches, railings or walks;
- (iv) broken glass;
- (v) the backing up of any sewer pipe or downspout;
- (vi) the bursting, leaking or running of any tank, tub, washstand, water closet, waste pipe, drain or other pipe or tank in, upon or near the building or the premises;
- (vii) the escape of steam or hot water;
- (viii) water, snow or ice being upon or coming through the roof, skylight, trapdoor, stairs, doorways, show windows, walks or any other place upon or near the

building or the premises or otherwise;

(ix) the falling of any fixture, plaster, tile or stucco; and

(x) any act, omission or negligence of adjoining or contiguous buildings or of owners of adjacent or contiguous property.

(b) Lessor or a successor in interest will be under no personal liability with respect to any of the provisions of this Lease and if Lessor is in breach or default with respect to its obligations under this Lease, Lessee will look solely to the equity of Lessor in the premises in satisfaction of Lessee's remedies and in no event will Lessee attempt to secure any personal judgment against any board member, employee or agent of the Lessor by reason of such default by the Lessor.

(c) The word "Lessor" as used herein means only the owner in fee for the time being of the premises, and in the event of any sale of premises, Lessor will be and hereby is entirely freed and relieved of all covenants and obligations of Lessor hereunder and it will be deemed and construed without further agreement between the parties or between the parties and the purchaser of the premises, that such purchaser has assumed and agreed to carry out all covenants and obligations of Lessor hereunder.

NO ABATEMENT

25. No diminution or abatement of rent or other compensation will be claimed or allowed for: (a) inconvenience or discomfort arising from the making of additions, repairs or improvements to the building or to its equipment and fixtures; or (b) for any space taken to comply with any law, ordinance or order of a governmental authority having jurisdiction except as specifically provided in this Lease.

Lessee will not be entitled to relief from observance of any provision, term or condition of this Lease including, but not limited to, the payment of rent in the event of any Executive Order, governmental pre-emption, moratorium, declaration or any law, ordinance or order of a governmental authority that prevents Lessor from opening the Building and/or in any way limits access to the Building by individuals and/or directs the manner in which the Building and any rooms in the Building will be utilized.

Notwithstanding the foregoing, if Lessee is unable to conduct its intended use in the demised premises due to any of the foregoing and such inability continues unabated for a period of more than thirty (30) calendar days, Lessee will have the right to terminate this Lease upon ten (10) calendar days written notice to Lessor.

APPLICABLE LAW AND CONSTRUCTION

26. The law of the State of New York will govern the validity, performance and enforcement of this Lease. The invalidity or unenforceability of any provision of this Lease will not affect or impair any other provision. The submission of this document to Lessee for

examination does not constitute an offer to lease, or a reservation of or option to lease, and becomes effective only upon execution and delivery thereof by Lessor and Lessee. All negotiations, considerations, representations and understandings between the parties are incorporated in this Lease. Lessor or Lessor's agents have made no representations or promises with respect to the building or the premises except as herein expressly set forth. The headings of the several articles and sections contained herein are for convenience only and do not define, limit or construe the contents of such articles or sections. Whenever herein the singular number is used, the same will include the plural, and the neuter gender will include the masculine and feminine genders. Neither this Lease nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of change, waiver, discharge or termination is sought.

UTILITY EASEMENT(S)

27. This Lease is subject and subordinate to any utility, gas, water and electric light or telephone line easements now or hereafter granted, affecting the premises, the building or the land upon which they are located.

CORRESPONDENCE AND NOTICES

28. (a) All correspondence, calls, questions and problems of the Lessee will be directed to Lessor's Superintendent of Schools or his or her designee.

(b) All correspondence, calls, questions and problems of Lessor will be directed to Lessee's Pastor, Vincent Pavone, or his designee.

(c) All notices to be given hereunder will be in writing and delivered either by hand or reputable overnight courier, addressed to either of the parties at the address hereinafter given or at any other subsequent mailing address they may indicate by notice. All notices to Lessor will be addressed to Hauppauge Union Free School District, 495 Hoffman Lane, Hauppauge, NY 11787, Attention: Superintendent of Schools, with a copy to Lamb & Barnosky, LLP, Attention: Eugene R. Barnosky, Esq., 534 Broadhollow Road, Melville NY 11747. Any notice hereunder by hand will be deemed received when delivered, if sent by overnight courier it will be deemed received on the next business day.

All notices to Lessee will be addressed to Vincent Pavone, Pastor, 65 Croft Lane, Smithtown, New York 11787, with a copy to Schmitt Law Group, P.C., Attention: Michelle Schmitt, Esq., 500 Old Country Road, Suite 110, Garden City, New York 11530.

BINDING EFFECT OF LEASE

29. The covenants, agreements and obligations contained in this Lease will, except as herein otherwise provided, extend to bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and permitted assigns. Each covenant, agreement, obligation or other provision herein contained will be deemed and construed as a separate and independent covenant of the party bound by, undertaking or making the same, not

dependent on any other provision of this Lease unless otherwise expressly provided.

UNAVOIDABLE DELAYS

30. Whenever Lessor will be required by the terms of this Lease or otherwise to make any improvements or repairs, to furnish any service, to perform any construction or reconstruction or to fulfill any other obligation hereunder, and Lessor will be delayed in, or prevented from, so doing, Lessor will not be deemed to be in default and this Lease and the obligation of Lessee to pay rent hereunder and to perform all of the other covenants and agreements hereunder on the part of the Lessee to be performed will not be affected, impaired, or excused, and any time limit herein fixed for the Lessor's performance thereof will be extended if and so long as Lessor's non-performance, delay or default will be caused by reason of strike or labor troubles, accidents, any rule, order or regulation of any department, or subdivision thereof of any governmental agency, governmental pre-emption in connection with any national emergency or war, the conditions of supply and demand which have been or are affected by war or other emergency or any other cause beyond Lessor's reasonable control.

SECURITY

31. Lessee has deposited with Lessor the sum of Fourteen Thousand Four Hundred Thirty and 00/100 Dollars (\$14,430.00), as security for this Lease. It is agreed that in the event Lessee defaults in respect of any of the terms, provisions and conditions of this Lease, including, but not limited to, the payment of rent and additional rent, and such default continues beyond the expiration of any applicable cure period, Lessor may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any rent and additional rent or any other sum as to which Lessee is in default or for any sum which Lessor may expend or may be required to expend by reason of Lessee's default in respect of any of the terms, covenants and conditions of this Lease, including but not limited to, any damages or deficiency in the re-leasing of the premises, whether such damages or deficiency accrued before or after summary proceedings or other re-entry by Lessor. In the event that Lessee will fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease, the security, will be returned to Lessee after the date fixed as the end of the Lease and after delivery of entire possession of the demised premises to the Lessor, in their condition existing as of the commencement date, reasonable wear and tear excepted. In the event of a sale of the land and building or leasing of the building, of which the demised premises form a part, Lessor will have the right to transfer the security to the vendee or Lessee and Lessor will thereupon be released by Lessee from all liability for the return of such security; and Lessee agrees to look to the new lessor solely for the return of said security; and it is agreed that the provision hereof will apply to every transfer or assignment made of the security to a new lessor. Lessee further covenants that it will not assign or encumber or attempt to assign or encumber the monies deposited herein as security and that neither Lessor nor its successors or assigns will be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

SECTION 403-a OF THE EDUCATION LAW

32. Lessor and Lessee agree and acknowledge that this Lease is made in accordance

with and subject to the provisions of Section 403-a of the Education Law.

ZONING

33. The Lessee is aware of the fact that the land and buildings of which the demised premises are a part has not heretofore been required to comply with statutes, ordinances, rules and regulations of any governmental entity having land use regulatory control over the jurisdiction within which the premises are located, including, but not limited to, those of its/their Department of Buildings and Board of Zoning Appeals.

In the event that, on account of Lessee's use, the said land and/or building do become subject to the authority of any governmental entity having land use regulatory control over the jurisdiction within which the premises are located, the Lessee agrees to pay the costs incurred or to be incurred in order to comply with or oppose the compliance with, the above. Such costs will include, but are not limited to, filing fees, transcript charges, expert witness fees and expenses, and legal fees.

Lessee agrees to aid, assist and fully cooperate with Lessor in connection with the above.

Lessor may elect, in its sole discretion, to oppose the compliance with all or part of the requirements of any governmental entity having land use regulatory control over the jurisdiction within which the premises are located. Lessee will, however, be liable for the costs, whether the Lessor is successful or not. Lessee will, upon demand, deposit with Lessor's attorneys the estimated costs. After all costs have been incurred Lessee will be entitled to return of its share of any excess deposit. In the event, however, that Lessor will elect not to oppose compliance, Lessee may, at its sole cost and expense, oppose compliance, subject to approval of Lessee's counsel by the Lessor (which will not be unreasonably withheld). Lessor agrees to aid, assist and fully cooperate with Lessee in connection with the foregoing. Any opposition will be deemed made on behalf of both Lessor and Lessee.

In the event of a final order of a court of competent jurisdiction, prohibiting or substantially limiting Lessee's use of the premises, upon vacating same this Lease will be deemed terminated.

MISCELLANEOUS

34. (a) The Lessor will have the right to designate the area(s) to be used for parking of Lessee, and Lessee and its staff, congregants, students, employees, invitees and/or agents will park their vehicles in the area so designated. Subject to the foregoing, Lessee, its members, students, customers, invitees and employees will have the right in common with the Lessor and other lessees of Lessor, their staff, students, customers, employees and invitees to use the parking spaces/areas other than those allocated herein to the Lessee.

(b) Lessee will not permit the parking of any vehicle on the streets and roadways adjoining or surrounding the building and Lessee will require its employees,

customers, invitees, lessees and visitors to park only in those parking areas serving the premises and as may be designated from time to time by the Lessor for use by Lessee. The parking area will not be used for storage, nor will trailers or vans remain thereon other than for loading and unloading.

(c) All of the above automobile parking areas, the driveways, entrances and exits thereto, and other facilities furnished by Lessor for the general use, in common, of Lessor and lessees, their officers, agents, employees, staff, students and customers, will at all times be subject to the exclusive control and management of Lessor, and Lessor will have the right from time to time to establish, modify and enforce reasonable rules and regulations with respect to all facilities and areas mentioned in this Article. Lessor will have the right, but will not be obligated: to construct, maintain and operate lighting facilities on all said area and improvements; to police the same; from time to time to change the area, level, location and management of parking areas and other facilities hereinabove referred to; to restrict parking by lessee, their officers, agents, staff, students and employees to designated parking areas; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Lessor's counsel, be legally sufficient to prevent a dedication thereof or the accrual of any rights to any person or the public therein; to close temporarily all or any portion of the parking areas or facilities to discourage unauthorized parking; and to do and perform such other acts in and to said areas and improvements as in the use of good judgment, the Lessor will determine to be advisable with a view to the improvement of the convenience and use thereby of Lessor, lessees, their officers, agents, staff, students, employees and customers. Lessor will operate and maintain the common facilities referred to above in such manner as Lessor, in its sole discretion, will determine from time to time. Without limiting the scope of such discretion, Lessor will have the full right and authority to employ all personnel and to make all rules and regulations pertaining to and necessary for the proper operation and maintenance of the common areas and facilities.

(d) Lessee will obtain, at Lessee's expense, all governmental licenses, approvals, certificates and permission required for the operation of its business at the demised premises; and Lessee will supply Lessor with copies of such current governmental licenses, approvals, certificates and permission.

(e) This instrument will not be a lien against said premises in respect to any mortgages that are now on or that hereafter may be placed against said premises, and that the recording of such mortgage or mortgages will have preference and precedence and be superior and prior in lien of this Lease, irrespective of the date of recording and the Lessee agrees to execute without cost, any such instrument which may be deemed necessary or desirable to further effect the subordination of this Lease to any such mortgage or mortgages, and a refusal to execute such instruments will entitle the Lessor, or the Lessor's assigns and legal representatives to the option of canceling this Lease without incurring any expense or damage and the term hereby granted is expressly limited accordingly.

(f) That the Lessee will not nor will the Lessee permit sub-lessees or other persons to do anything in said premises, or bring anything into said premises, or to be kept therein, which will in any way increase the rate of fire insurance on or premiums for other insurance in connection with said demised premises, or its use nor use the demised premises or

any part thereof, nor suffer or permit their use for any business or purpose which would cause an increase in the rate of fire insurance on said building and the Lessee agrees to pay on demand any such increase.

(g) The failure of the Lessor to insist upon a strict performance of any of the terms, conditions and covenants herein, will not be deemed a waiver of any rights or remedies that the Lessor may have, and will not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained. This instrument may not be changed, modified, discharged or terminated orally.

(h) Notwithstanding any other provision of this Lease, Lessee will pay Lessor for each day Lessee retains possession of the demised premises or any part thereof after termination of this Lease, by lapse of time or otherwise, an amount which is three (3) times the amount of the last monthly rent prior to Lessee's holdover (computed on a year of 360 days) payable on a per diem basis for each day Lessee remains in possession of the demised premises based on the rent applicable to the period in which such possession occurs and Lessee will also pay all damages, consequential as well as direct, sustained by Lessor by reason of such retention. Nothing in this paragraph contained, however will be construed or operate as a waiver of Lessor's right of re-entry or any other right of Lessor.

WITNESS WHEREOF, the parties have caused this Lease to be executed this _____ day of _____, 2023.

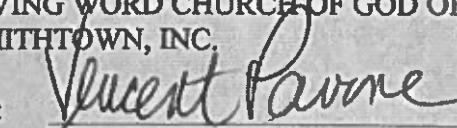
BOARD OF EDUCATION OF THE
HAUPPAUGE
UNION FREE SCHOOL DISTRICT

By: _____

David M. Barshay, Esq.
President

LIVING WORD CHURCH OF GOD OF
SMITHTOWN, INC.

By: _____


Vincent Pavone, Pastor



HAUPPAUGE PUBLIC SCHOOLS

7.3. A.6

495 Hoffman Lane
P.O. Box 6006
Hauppauge, New York 11788

MEMORANDUM

To: Brigid Siena
From: George Gagliardi
Date: June 15, 2023
Re: Contract Review

Please look over the attached contract for Deep Water Fleet, Inc. It is for our Annual 5th Grade Oceanography program aboard the Yankee III Charter Boat out of the Captree Boat Basin on October 3rd, 4th, 5th and 6th of 2023 (4 trips).

During the excursion an oceanographer guides the students through lessons at various stations on the boat. Students will use plankton nets to capture organisms that they will observe with both their eyes and under microscopes. Students will learn about barrier beaches and will compare the South Shore to the North Shore of Long Island.

The cost to each student is \$35.00

We have attached a copy of last year's contract and agreement for your reference.

Attachments:
2023 Contract Request for Deep Water Fleet, Inc.
Copy of 2022 Agreement

GG:kl

AGREEMENT
By and Between
HAUPPAUGE UNION FREE SCHOOL DISTRICT
495 Hoffman Avenue
Hauppauge, New York 11788-2836
-and-
DEEP WATER FLEET INC.
278 Edgewood Avenue
Oakdale, New York 11769-2038

This Agreement, dated as of the _____ day of _____, 2023 is made and entered into by and between HAUPPAUGE UNION FREE SCHOOL DISTRICT (the "District") and DEEP WATER FLEET, INC. ("the Company").

WHEREAS, the Company represents and warrants that it is in the business of providing school districts and other entities or individuals services, materials and equipment related to Oceanography and Marine Biology Education Boating trips in the Great South Bay and connected waterways, in the County of Suffolk, State of New York; and

WHEREAS, the District wishes to utilize the services, materials and equipment provided by the Company for the purpose of conducting field trips under the conditions hereinafter mentioned.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the District and Company agree as set forth as follows:

ARTICLE I – GENERAL CONDITIONS

- A. **Nature of Agreement**: The parties expressly acknowledge and agree that this Agreement sets forth the terms and conditions governing the services to be provided and performance of services to be rendered by the parties.
-

ARTICLE II – COMPANY’S RESPONSIBILITIES

- A. The Company will provide, for the exclusive use of the District, the Company’s boat, the “YANKEE III” and a Captain and crew, including a marine biologist.
- B. The Company will provide transport to the District’s attendees on the YANKEE III from the Captree Boat Basin to and around the Great South Bay and connected waterways, in the County of Suffolk, State of New York.
- C. The Company will provide fishing rods and bait for fishing during the trip.

- D. Each of the District's attendees will be provided with appropriate water safety equipment and instruction of use, including, but not limited to, personal flotation devices and any other devices mandated by federal, State and local laws.
- E. The Company will, at all times, maintain the ability to contact the Company, United States Coast Guard and other emergency and rescue services should an emergency arise. Either party has the right to declare an emergency and require the Company to immediately contact emergency and rescue services.
- F. The Company reserves the right to terminate the tour in case of unsafe conditions.

G. INSURANCE:

- 1. The Company will obtain and keep in full force and effect during the term of this Agreement, at the Company's sole cost and expense, the following insurance:
 - a. Comprehensive Automobile Liability, including all owned, non-owned and hired autos with limits of \$1,000,000 combined single limit for bodily injury and property damage liability;
 - b. Commercial General Liability
 - \$1,000,000 per occurrence/\$2,000,000 aggregate
 - \$2,000,000 Products and Completed Operations
 - \$1,000,000 Personal and Advertising Injury
 - \$1,000,000 Sexual Misconduct and Assault
 - \$100,000 Fire Damage
 - \$10,000 Medical Expense
 - c. Workers' Compensation and Employers' Liability, 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.
 - d. Excess Insurance. \$3,000,000.00 each occurrence and aggregate. Excess coverage must be on a follow-form basis over the required Automobile Liability and General Liability coverages.
- 2. Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Company hereby agrees to effectuate

the naming of the District as an additional insured on the Company'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:

- a. be an insurance policy from an A.M. Best rated "A-" or better insurer, licensed in New York State; and
 - b. state that the Company's coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers with a waiver of subrogation in favor of the District for all coverages including Workers Compensation.
3. 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 Company that are covered by the commercial general liability policy and the umbrella policy. At the District's request, the Company will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Company will provide a copy of the policy endorsements and forms.
4. The Company hereby indemnifies and holds harmless the District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Company, to the extent not covered by the applicable policy.
5. If a policy is written on a "claims-made" basis, the retroactive date must pre-date the inception of this Agreement.
6. The Company acknowledges that failure to obtain the foregoing insurance on behalf of the District constitutes a material breach of contract and subjects the Company to liability for damages, indemnification and all legal remedies available to the District. The Company 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 Company will provide the District with a copy of the Company's applicable insurance policies including any endorsements, modifications, or exclusions thereto.

7. The District is a member/owner of the New York Schools Insurance Reciprocal ("NYSIR"). The Company 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.
- H. The Company is responsible for compliance with any and all applicable federal, State and local laws.
- I. No alcoholic beverages will be permitted on the YANKEE III.

ARTICLE III – DISTRICT'S RESPONSIBILITIES

- A. The District will immediately report any damage to the Company's equipment of which it is aware.
- B. The District will provide reasonable adult supervision during the term of the Agreement for the attendees.

ARTICLE IV – TERM AND TERMINATION

- A. Term: The Company will provide services, materials and equipment on October 3, 2023, October 4, 2023, October 5, 2023, and October 6, 2023.
- B. The District will have usage of the Company's equipment and the services of its employees and agents beginning at approximately 10:00 a.m. and ending approximately 2:00 p.m. on each day of the term.
- C. Termination:
 1. The District has the right to cancel this Agreement, at any time, by giving the Company oral notice due to adverse weather conditions and all money paid by the District will be refunded by the Company.
 2. This Agreement may be terminated by the District "for cause" upon the occurrence of any of the following events:
 - a. Immediately upon the Company's breach of its obligations to provide insurance coverage; or
 - b. Immediately upon the Company's breach of any of the Company's obligations pursuant to, or violation of, any applicable State or federal law or regulation.

Upon termination of this Agreement "for cause," the Company is not entitled to payments hereunder and all money paid by the District will be refunded by the Company.

3. This Agreement may be terminated, at any time, by the District for convenience upon 30 calendar days' written notice to the Company.

ARTICLE V – CONSIDERATION

- A. The District agrees to pay the Company \$35.00 per person. The District guarantees payment for at least 25 paying attendees for each day of the term (\$875.00 per day; total for four days = \$3,500.00). There is no fee for teacher attendees.
- B. The District will provide the Company with an attendee count no later than five calendar days prior to each trip.
- C. Final payment is due December 6, 2023, including any money owed for paying attendees in excess of the guaranteed 25 attendees per day.
- D. The District, at any time prior to departure, has the right to cancel the tour due to inclement weather without forfeiting any money.
- E. All money paid will be refunded if the tour is cancelled by the Company. If the tour is interrupted for any reason, the District is entitled to a portion of ~~fees paid for time which the tour was shortened.~~
- F. The District is not required to pay more than the amount set forth in Article V(A) above and is not liable for any additional costs or fees that may be incurred during the terms of this Agreement, including, but not limited to, the costs associated with fuel, fuel surcharges, gratuities, mechanical repairs, tolls, cost of the Captain and his/her services, parking, licensing, traffic or criminal violations or insurance.
- G. The Company will provide a detailed written invoice showing the amount paid and owed by the District.

ARTICLE VI – INDEMNIFICATION

To the fullest extent permitted by law, the Company 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 Company's Services hereunder, or the action of, or the failure to act by the Company (including, but not limited to the Company's failure to obtain insurance required by this Agreement or the

law), the Company's representatives or employees, or anyone for whose acts the Company 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 Company pursuant to the provisions of this Article VI, the District will promptly notify the Company of the legal proceeding, claim or demand, and give the Company an opportunity to defend and settle same without any cost to the District, and will extend reasonable cooperation to the Company in connection with the defense, which will be at the expense of the Company. In the event that the Company 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 Company 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 Company of a legal proceeding, claim or demand will not relieve the Company of any obligation that the Company has pursuant to this Article VI unless and only to the extent that the failure to notify the Company materially prejudices the Company.

The Company 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 Article VI will survive the expiration or sooner termination of this Agreement.

ARTICLE VII – WARRANTIES

A. During the term of the Agreement, the Company warrants:

1. All the equipment provided to the District, including but not limited to the YANKEE III and safety equipment, will be in good and safe working order and free from defects;
2. All the equipment provided to the District, including but not limited to safety equipment, will have the required mechanical and safety inspections completed and have proof of same on board, as required by applicable federal, State and local laws;
3. The YANKEE III will have the required mechanical and safety inspections completed and have proof of same on board, as required by applicable federal, State and local laws;

4. The YANKEE III will be insured and have proof of insurance on board, as required by applicable federal, State and local laws; and
5. The Captain and crew of the YANKEE III must be duly qualified, licensed and insured.

ARTICLE VIII – MISCELLANEOUS PROVISIONS

- A. If the District or a building or class in the District in which there are students who are scheduled to go on the trip(s) is closed for in-person student instruction for any reason or the trip(s) and/or services cannot be provided due to an order(s) of any local, State or federal government entity (including any department or agency thereof) on one or more days during which the trip and/or services are scheduled to be provided for the District and, as a result, the Company does not provide the trip(s) and/or services, the District, in its sole discretion, may choose to reschedule the trip(s) and/or services, cancel the portion of the trip(s) and/or services that could not be provided for the reasons set forth in this paragraph and/or terminate this Agreement. If the District chooses to cancel a portion of the trip(s) and/or services or to terminate the Agreement, the District will not be responsible for payment for the trip(s) and/or services not provided and, if the District made any deposit or other payment in advance of the trip(s) and/or services being provided, the Company will reimburse the District and return the deposit or other advance payment within 30 calendar days of the District's written demand.
- B. **Severability**: In the event any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.
- C. **Entire Agreement & Amendments**: This Agreement constitutes the entire Agreement of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous writings, understandings, agreements, solicitations, documents and representations, express or implied. This Agreement may be amended or modified only by written documents duly authorized, executed and delivered by the District and Company.
- D. **Captions**: The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions, Articles, Sections or Clauses hereof.
- E. **Governing Law**: 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.

- F. **Assignment:** Neither this Agreement nor any of the rights, interests or obligations hereunder will be assigned, transferred, disposed of, or otherwise alienable by either party without the express written consent of the other party. Such consent will not be unreasonably withheld.
- G. **Interpretation:** When the context in which the words are used in this Agreement indicates that such is the intent, the words in the singular number include the plural and vice versa, and words in the masculine gender include feminine and neuter genders and vice versa.
- H. **Third-Party Beneficiaries:** There are no third-party beneficiaries of or in this Agreement, other than NYSIR.
- I. **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 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.
- J. **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.
- K. **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 Company:

Deep Water Fleet Inc.
278 Edgewood Avenue
Oakdale, NY 11769-2038
Attention: Captain Frederick Roberts

To 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.

L. **No End User Agreements:** In the event that the Company 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.

M. **SEXUAL HARASSMENT POLICY:** THE COMPANY 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.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized officer, and the District has caused this Agreement to be executed in its name by its duly authorized officer.

DEEP WATER FLEET, INC.

By: Frederick J. Roberts
Frederick J. Roberts, President

HAUPPAUGE UNION FREE
SCHOOL DISTRICT

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

Date: July 17, 2023

Date: _____



HAUPPAUGE PUBLIC SCHOOLS

7.3. A.7

495 Hoffman Lane
P.O. Box 6006
Hauppauge, New York 11788

CATHERINE FREEMAN

Interim Assistant Superintendent for Business & Operations

TO: Board of Education

FROM: Catherine Freeman

RE: Sele-Dent, Inc. 

DATE: July 18, 2023

The Agreement and Rider to Agreement with Sele-Dent, Inc. is for the district's 2023/24 third party dental administrative services.

**RIDER TO AGREEMENT BETWEEN
SELE-DENT, INC.
and the
HAUPPAUGE UNION FREE SCHOOL DISTRICT**

To the extent that the provisions of this Rider are inconsistent with the attached contract ("the Contract") between the Hauppauge Union Free School District ("the Client") and SELE-DENT, INC. ("Sele-Dent") made as of the first day of July 2023 to which this Rider is attached, the provisions of this Rider will control. The Contract and this Rider are collectively hereinafter referred to as "the Agreement."

1. Section 2 of the Contract: Sentences 2 and 3 in Section 2 of the Contract are deleted in their entirety.
2. Section 3 of the Contract: Paragraph (iii) of Section 3 of the Contract is deleted in its entirety.
3. Section 5 of the Contract: Paragraph (b)(8) of Section 5 of the Contract is amended to replace the word, "Union's" with the word, "Client's."
4. Compensation: Sele-Dent must submit monthly invoices in form and substance satisfactory to the Client for Sele-Dent's Services. The Client will pay Sele-Dent within 60 calendar days of its receipt, review and approval of the invoice.
5. Section 5 of the Contract: Section 5 of the Contract is deleted in its entirety and replaced with the following:

"5. SELE-DENT acknowledges that it is a Business Associate of the CLIENT and agrees to execute the CLIENT's Business Associate Agreement and to abide by the applicable provisions of HIPAA, including execution of the CLIENT's Business Associate Agreement, attached hereto."
6. Section 9 of the Contract: The second sentence of Section 9 of the Contract is amended to read: "All data collected by Sele-Dent in connection with this Agreement will be stored pursuant to applicable law and Client's policy."
7. Section 10 of the Contract: Section 10 of the Contract is amended by adding the following:

"If addressed to Client at:
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, New York 11788-2836"

8. Section 11 of the Contract: Section 11 of the Contract is amended by replacing the first word of the third line, "Client" with the word, "entity."

9. Section 12 of the Contract: Section 12 of the Contract is deleted in its entirety.

10. Section 13 of the Contract: Section 13 of the Contract is amended as follows:

- a. In subsection 13(c), the word, "UNION" is replaced with the word, "CLIENT."
- b. In subsection 13 (d) the word, "CLIENTS" is replaced with the word, "payments."

11. Indemnification: To the fullest extent permitted by law, Sele-Dent indemnifies and will defend (with counsel selected by the Client) and hold harmless the Client, 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 Sele-Dent's services hereunder, or the action of, or the failure to act by Sele-Dent, Sele-Dent's representatives or employees, or anyone for whose acts Sele-Dent 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 Sele-Dent pursuant to the provisions of this Paragraph, the Client will promptly notify Sele-Dent of the legal proceeding, claim or demand, and give Sele-Dent an opportunity to defend and settle same without any cost to the Client, and will extend reasonable cooperation to Sele-Dent in connection with the defense, which will be at the expense of Sele-Dent. In the event that Sele-Dent fails to defend the same within 30 calendar days of receipt of the notice, the Client will be entitled to assume the defense thereof, and Sele-Dent will be liable to repay the Client 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 Client to notify Sele-Dent of a legal proceeding, claim or demand will not relieve Sele-Dent of any obligation that Sele-Dent has pursuant to this Paragraph unless and only to the extent that the failure to notify Sele-Dent materially prejudices Sele-Dent.

Sele-Dent 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 Client (which consent will not be unreasonably withheld).

To the fullest extent permitted by law, the Client indemnifies and will defend (with counsel selected by the Client) and hold harmless Sele-Dent, its employees, agents, representatives and officers 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 gross negligence, criminal conduct, or fraud of the Client or any of its employees.

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 Client pursuant to the provisions of this Paragraph, Sele-Dent will promptly notify the Client of the legal proceeding, claim or demand, and give the Client an opportunity to defend and settle same without any cost to Sele-Dent, and will extend reasonable cooperation to the Client in connection with the defense, which will be at the expense of the Client. In the event that the Client fails to defend the same within 30 calendar days of receipt of the notice, Sele-Dent will be entitled to assume the defense thereof, and the Client will be liable to repay the Sele-Dent 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 Sele-Dent to notify the Client of a legal proceeding, claim or demand will not relieve the Client of any obligation that the Client has pursuant to this Paragraph unless and only to the extent that the failure to notify the Client materially prejudices the Client.

The Client 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 Sele-Dent (which consent will not be unreasonably withheld).

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

12. Required Records: ~~Sele-Dent 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 Client policies and procedures in force during the term of this Agreement.~~

13. Client's Policies/Authority: Sele-Dent certifies that it has reviewed and is familiar with the policies, rules and regulations of the Client including, but not limited to, the Client's anti-harassment and anti-discrimination policies and regulations and the Client's Code of Conduct (collectively, "the Policies"). Sele-Dent will ensure that its employees, representatives, agents and subcontractors and any other person providing services or present on Client's property pursuant to this Agreement (collectively, "Sele-Dent'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>. Sele-Dent agrees that it will comply with the Policies and will cause Sele-Dent's Service Providers to do the same.

SELE-DENT 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 Sele-Dent or one of Sele-Dent's Service Providers has been subjected to harassment or discrimination while providing services or while present on Client property pursuant to this Agreement must be reported immediately to the Deputy Superintendent (or

to the Superintendent if the Deputy Superintendent is the subject of the allegation or concern). Sele-Dent confirms that it has notified Sele-Dent's Service Providers of this requirement.

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

14. **Insurance:** Sele-Dent will obtain and keep in full force and effect during the term of this Agreement, at Sele-Dent's sole cost and expense, the following insurance:

a. Commercial General Liability Insurance

\$1,000,000 per occurrence/\$2,000,000 aggregate
\$2,000,000 Products and Completed Operations
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Sexual Misconduct and Assault
\$100,000 Fire Damage
\$10,000 Medical Expense

b. Automobile Liability Insurance

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

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

Statutory Workers' Compensation (C-105.2 or U-26.3) and N.Y.S. Disability Benefits Insurance (DB-120.1) 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.

d. Professional Errors and Omissions Insurance

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

e. Excess Insurance

\$3,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis or provide broader coverage over the required automobile liability, general liability and professional liability coverages.

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

- be an insurance policy from an A.M. Best rated "A-" or better insurer, licensed in New York State; and
- state that Sele-Dent's coverage is primary and non-contributory coverage for the Client, its Board, employees and volunteers with a waiver of subrogation in favor of the Client for all coverages including Workers compensation.

The Client 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 Client. 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 Sele-Dent that are covered by the commercial general liability policy and the umbrella policy. At the Client's request, Sele-Dent will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, Sele-Dent will provide a copy of the policy endorsements and forms.

Sele-Dent hereby indemnifies and holds harmless the Client for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of Sele-Dent, 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.

Sele-Dent acknowledges that failure to obtain the foregoing insurance on behalf of the Client constitutes a material breach of contract and subjects Sele-Dent to liability for damages, indemnification and all legal remedies available to the Client. Sele-Dent must provide the Client with proof satisfactory to the Client that the above requirements have been met, prior to the commencement of work or use of Client's facilities. The failure of the Client 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 Client. Upon request, Sele-Dent will provide the Client with a copy of Sele-Dent's applicable insurance policies including any endorsements, modifications, or exclusions thereto.

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

The Client, 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 Client.

15. Safeguarding Information: Neither Sele-Dent nor the Client 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.

16. Termination:

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

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

(2) Immediately upon Sele-Dent's breach of Sele-Dent's obligations to provide the required insurance coverage;

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

(4) Twenty calendar days after Sele-Dent has received written notice from the Client that Sele-Dent has breached any of Sele-Dent's other obligations hereunder unless, within the 15 calendar day period, Sele-Dent cures the breach to the Client's satisfaction.

B. This Agreement is automatically terminated upon Sele-Dent'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 Sele-Dent which is not dismissed within 60 calendar days of filing. Upon termination of this Agreement pursuant to this subparagraph (B), Sele-Dent is not entitled to any further payments hereunder.

C. This Agreement may be terminated, at any time, by the Client for convenience upon 60 calendar days' written notice to Sele-Dent. Upon termination of this Agreement for convenience by the Client, Sele-Dent is entitled to receive all sums due, accrued and unpaid as of the date of termination.

17. 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.

18. 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.

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

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

21. 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.

22. 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).

23. Independent Contractor: SELE-DENT is retained by the Client only for the purposes and to the extent set forth in this Agreement. SELE-DENT's relation to the Client is solely that of an independent contractor during the period of SELE-DENT's retention and delivery of Services hereunder.

Neither SELE-DENT nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions thereto from the Client 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 SELE-DENT, SELE-DENT alone is responsible for their work, personal conduct, direction, compensation, and for payment of all employment, income and other taxes in relation thereto.

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

**HAUPPAUGE UNION FREE
SCHOOL DISTRICT**

By: _____

David M. Barshay
President, Board of Education

Date: _____

SELE-DENT, INC.

By: _____



Anne M. Maloney
President

Date: July 18, 2023

CLAIMS ADMINISTRATION AGREEMENT and NETWORK ACCESS AGREEMENT

This Agreement made as of the first day of July 1st, 2023, by and between **Sele-Dent, Inc.**, (hereinafter "**SELE-DENT**") and **Hauppauge Union Free School District** (hereinafter "**client**"),

WITNESSETH:

WHEREAS the **client** established Dental Benefit Plans (hereinafter "**PLAN**") for certain of its members and wishes to engage **SELE-DENT** to administer dental claims brought under the **PLAN**:

WHEREAS, SELE-DENT has developed considerable expertise in dental benefit plan administration and is willing to perform the administration services sought by the **client**:

NOW, THEREFORE, in consideration of the premises and of the **MUTUAL** covenants herein contained, the parties hereto agree as follows:

1. **APPOINTMENT OF SELE-DENT:** The **client** hereby appoints **SELE-DENT** as the Third-Party Administrator for the Client's participants, subject to the terms and conditions provided herein, and **SELE-DENT** accepts such appointment.

TERM: The above appointment takes effect **July 1st, 2023**. The appointment shall expire on **June 30th, 2024**. Notwithstanding, the appointment or anything contained in this agreement to the contrary, either party may terminate this agreement for any reason upon sixty (60) days written notice. In the event of termination, Sele-Dent shall deliver all of the Client's records to the Client necessary to perform duties pursuant to paragraph VII of this agreement.

2. **FEE:** In consideration of **SELE-DENT**' services hereunder, the **Client** shall pay **SELE-DENT** a fee of **\$4.25 per member, per month** for each member for each month services are provided to the **Client** under this Agreement. Any fee increases will become effective on the anniversary date of this Agreement. **SELE-DENT** must provide 90 days' notice to the **Client** of any proposed fee increases. The above fee is guaranteed for 36 months from inception.

3. **DUTIES OF THE CLIENT:** In connection herewith, the **Client** shall:

- (i) Supply **SELE-DENT** with copies of all **PLAN** documents and amendments, modifications, and supplements.
- (ii) Certify, on a medium agreeable to both the **Client** and **SELE-DENT**, the eligibility of participants to **SELE-DENT**.
- (iii) Make payment within thirty - (30) days after billing by **SELE-DENT**.

4. **DUTIES OF SELE-DENT:**

- (i) Review all claims made hereunder (as described in Schedule A, attached) and perform all other services necessary to administer claims under the **Plan** with respect to participants.
- (ii) Record the dollar amount of coverage available under the **PLAN** for each claim.
- (iii) Verify that the claimant is covered according to the most recent information supplied by the **Client**.
- (iv) Pay claims which it determines to be payable under the **PLAN**.
- (v) **SELE-DENT** shall provide the **Client** with a monthly claim register of all paid claims in both check number order and alphabetical order, as well as an analysis of paid claims by class of benefit, plus detailed information on any claim as requested by the **Client**. A year-end comprehensive report will be provided to the **Client** as soon as possible after year-end. The year-end report will include an Auditor's certification, to be furnished by **SELE-DENT**, that internal controls and procedures have been established and operate with respect to **SELE-DENT** responsibilities under the Agreement to the **Client** to assure that benefit payments are made, in accordance with applicable Plan documents, only to participants certified as eligible to receive benefits under the **PLAN**, as provided by the **Client** to **SELE-DENT**.
- (vi) **SELE-DENT** shall furnish such other reports as are reasonably requested by the **Client** in connection with this Agreement.
- (vii) **SELE-DENT** shall maintain all records used to perform the services for seven (7) years following the year in which services are performed (or such longer period required under applicable law). Such records may be reviewed and audited from time to time by the **Client** at any time during the normal business hours of **SELE-DENT**. In the event of termination of this Agreement, any such records in the possession of **SELE-DENT** shall be forwarded to the **Client** as soon as there is no further need in connection with the services to be performed by **SELE-DENT** under this Agreement. The **Client** auditors shall give **SELE-DENT** at least one (1) week notice for such audits.
- (viii) **SELE-DENT** shall have its employees bonded, for the benefit of the **PLAN**, in conformity to the requirement of the Employee Retirement Income Security Act of 1974, as amended (hereinafter "ERISA") and shall maintain such insurance covering the **Client** for no less than \$1,000,000.00. **SELE-DENT** further agrees to maintain its own errors and omissions coverage in the amount of at least \$1,000,000.00.
- (ix) **SELE-DENT** shall bear all costs associated with the normal processing and payment of claims.
- (x) Claims will be processed by **SELE-DENT** on a uniform and non-discriminatory basis. **SELE-DENT** will comply with all Federal and/or State requirements with respect to claim notification and rejection procedures.

- (xi) All appeals by participants of claims rejected pursuant to the **Client's** specifications shall be referred to, and determined by, the Board of Trustees of the **Client** in accordance with the ERISA claim and appeal procedures.
- (xii) **SELE-DENT** shall make all claims records, including supporting and back-up documents, available to a **Client** designated Auditor during normal business hours, for the auditing of the **Client**
- (xiii) Claim payments.
- (xiv) **Pursuant to HIPAA, SELE-DENT** guarantees, to fully comply with all **HIPAA** mandated "EDI" Electronic Data Interchange requirements.

SELE-DENT further guarantees to fully comply with any changes and/or additions to such requirements made and effective during the term of this Agreement.

SELE-DENT guarantees full compliance with the **ERISA Claim and Appeal regulations**.

5. **SELE-DENT** acknowledges that it is a Business Associate of the **Client** and in order to comply with the Business Associate contract provision of the HIPAA privacy rules the parties agree as follows:

- a) General: Terms used, but not otherwise defined, in this Paragraph of this Agreement shall have the same meaning as those terms in the Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- b) Obligations and Activities of **SELE-DENT**
 - 1) **SELE-DENT** agrees not to use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required by Law.
 - 2) **SELE-DENT** agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
 - 3) **SELE-DENT** agrees to mitigate, to the extent practicable, any harmful effect that is known to **SELE-DENT** of a use or disclosure of Protected Health Information by **SELE-DENT** in violation of the requirements of this Agreement.
 - 4) **SELE-DENT** agrees to report to the **Client** any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware or should be aware.
 - 5) **SELE-DENT** agrees to ensure that any agent to whom it provides Protected Health Information received from or created or received by **SELE-DENT** on

behalf of the **Client** agrees to the same restrictions and conditions that apply through this Agreement to **SELE-DENT** with respect to such information.

- 6) **SELE-DENT** agrees to provide access, at the request of the **Client**, to Protected Health Information in a Designated Record Set, to the **Client** or, as directed by the **Client**, to an Individual, in order to meet the requirements under 45 CFR 164.524 (i.e. allow individuals access to their own protected health information).
- 7) **SELE-DENT** agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the **Client** directs or agrees to at the request of The **Client** or an Individual, pursuant to 45 CFR 164.526.
- 8) **SELE-DENT** agrees to make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from or created or received by **SELE-DENT** on behalf of, the **Client** available to the Secretary of the Department of Health and Human Services, or other proper governmental entity, for purposes of determining the **Union's** compliance with the Privacy Rule.
- 9) **SELE-DENT** agrees to document disclosures of Protected Health Information and information related to such disclosures as would be required for The **Client** to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528. **SELE-DENT** further agrees to provide the **Client** or Individual such documentation in accordance with 45 CFR 164.528. Notwithstanding the foregoing, accountings of disclosures of Protected Health Information made for the purpose of Treatment, Payment and Health Care Operations is not required.

c) General Use and Disclosure

Except as otherwise limited in this Agreement, **SELE-DENT** may use or disclose Protected Health Information on behalf of, or to provide services to, the **Client** for the purposes of Payment and Health Care Operations performed as a third-party administrator. Such use or disclosure of Protected Health Information shall be done in such a manner that would not violate the Privacy Rule if done by the **Client**. Such use or disclosure shall conform to the minimum necessary policies and procedures of the **Client**.

Notwithstanding the foregoing, **SELE-DENT** may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 164.502(j)(1).

SELE-DENT provides access to the **SELE-DENT** New York, New Jersey dental network and the UNICARE national dental network for Connecticut participants at an additional cost.

d) Obligations of The **Client**

- 1) The **Client** shall notify **SELE-DENT** of any limitation(s) in its notice of privacy

practices of the **Client** in accordance with 45 CFR 164.520 (Notice of Privacy Practices for Protected Health Information), to the extent that such limitation may affect Business Associates' use or disclosure of Protected Health Information.

- 2) The **Client** shall notify **SELE-DENT** of any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect **SELE-DENT**' use or disclosure of Protected Health Information.
- 3) The **Client** shall notify **SELE-DENT** of any restriction to the use or disclosure of Protected Health Information that the **Client** has agreed to in accordance with 45 CFR 164.522 (regarding the right of Individual to request restrictions on use and disclosure of Protected Health Information), to the extent that such restriction may affect Business Associates' use or disclosure of Protected Health Information.
- 4) The **Client** shall not request **SELE-DENT** to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule.

e) Term and Termination

- 1) Notwithstanding any terms of this Agreement to the contrary, the provisions of this paragraph of this Agreement shall terminate only when all of the Protected Health Information provided by the **Client** to **SELE-DENT** or created or received by **SELE-DENT** on behalf of the **Client**, is destroyed or returned to the **Client**.—If it is not feasible to return or destroy Protected Health Information, the protections of this Agreement shall continue to extend to such information pursuant to (3), below.
- 2) Termination for Cause. Upon the **Client's** knowledge of a material breach by **SELE-DENT** of this paragraph of the Agreement, the **Client** shall either:
 - (i) Provide an opportunity for **SELE-DENT** to cure the breach or end the violation of this paragraph of the Agreement. If this is not done in a timely manner (i.e. as soon as feasible), the **Client** may terminate this Agreement;
 - (ii) Immediately terminate this Agreement if **SELE-DENT** has breached a material term of this Section of the Agreement and cure is not possible; or
 - (iii) If neither termination nor cure is feasible, the **Client** shall report the violation to the Secretary of the Department of Health and Human Services.
- 3) Effect of Termination
 - (i) Except as provided in paragraph (ii), below, upon termination of this Agreement, for any reason, **SELE-DENT** shall return or destroy all

Protected Health Information received from the **Client** or created or received by **SELE-DENT** on behalf of the **Client**. This provision shall apply to Protected Health Information that is in the possession of agents of **SELE-DENT**. **SELE-DENT** shall retain no copies of the Protected Health Information.

- (ii) In the event that **SELE-DENT** determines that returning or destroying the Protected Health Information is not feasible, **Sele-Dent** shall provide to the **Client** notification of the conditions that make return or destruction not feasible. Upon notice that return or destruction of Protected Health Information is not feasible, **SELE-DENT** shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction not feasible, for so long as **SELE-DENT** maintains such Protected Health Information.

f) Miscellaneous

- 1) A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
 - 2) The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for The **Client** to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, (**HIPAA**)
 - 3) The respective rights and obligations of **SELE-DENT** under paragraph 5 (e)(3) of this Agreement shall survive the termination of this Agreement.
 - 4) Interpretation. Any ambiguity in this Agreement shall be resolved to permit the **Client** to comply with the Privacy Rule.
6. **SELE-DENT** warrants that it is experienced in claims administration and will perform its duties hereunder diligently and in accordance with the norms of the industry, the **PLAN** and Trust Agreements under the **PLAN** and all applicable laws (including **ERISA** and **HIPAA**), rules and regulations of governmental bodies.
7. **SELE-DENT** represents and warrants that, during the term of this Agreement, no person who will be performing services under this Agreement will be disqualified from providing such services under Section 411 of **ERISA**.
8. **DISPUTED CLAIMS**: In the event **SELE-DENT** is unable, based on the documentation available to it, to determine the validity or amount of a claim brought hereunder, it shall so advise the **Client**, furnishing its reasons for its inability to make such determination. The validity of all refused claims shall be determined by the **Client**.
9. **SOFTWARE**: Any software used or developed by **SELE-DENT** for its use in connection with the performance of its services hereunder shall be the sole property of **SELE-DENT**.

All data collected by **SELE-DENT** in connection with this Agreement may be stored on any

of the following medium: hard copy, paper, floppy diskette, computer disk, tape, or any other form. Such data will remain the sole property of the **Client** and will be returned to the **Client** upon demand.

10. **NOTICES:** All notices required or permitted hereunder shall be deemed validly given, if sent by certified mail, return receipt requested and if addressed to **SELE-DENT** at:

SELE-DENT, INC.
One Huntington Quadrangle
Suite 1S03
Melville, N.Y. 11747

And shall be deemed to have been given when received, as evidenced by post office or courier services receipt or other appropriate documentation.

11. This Agreement shall be binding upon the parties hereto and upon their successors and assigns and nothing herein contained shall limit the right of the **Client** to merge with any other **Client**, or to alter the nature of the **Client** to the extent permitted by law, and nothing herein contained shall limit the right of **SELE-DENT** to merge with any other organization, association, partnership or corporation. In the event of such merger, this Agreement may be cancelled, by either party, upon 60 days written notice from receipt of written notification of an event under this paragraph.

SELE-DENT may not subcontract any of its duties under this Agreement without the express written consent of the **Client**.

12. **INDEMNIFICATION:** The **Client** agrees to indemnify **SELE-DENT** and hold **SELE-DENT** harmless from and against all damages, liabilities, expenses and cost, including reasonable attorney's fees (collectively, "Losses") suffered or incurred by it in connection with the performance of **SELE-DENT'S** services hereunder caused by the negligence, criminal conduct, or fraud of the **Client** or any of its employees. The **SELE-DENT** agrees to indemnify the **Client** and hold the **Client** harmless from and against any and all damages, liabilities, expenses and cost, including reasonable attorney's fees (collectively, "Losses") suffered or incurred by it, to the extent such losses result from an action or omission on the part of **SELE-DENT** constituting a breach of any provision or representation or warranty by **SELE-DENT** contained in the Agreement, or as a result of criminal conduct, negligence or fraud on the part of **SELE-DENT** or any of its directors, officers or employees.

Both parties hereby agree that promptly upon learning of the assertion against it of any claim with respect to which indemnification may be asserted hereunder, it shall give written notice of such claim to the other party, and shall offer such other party, together with such notice, the right, at other party's expense, to participate in the defense of such claim.

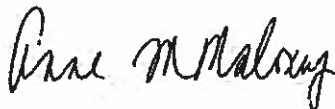
13. **PROCEDURE UPON TERMINATION:**

- a) Upon the effective date of termination of this Agreement for any reason other than the **Client's** failure to pay **SELE-DENT'** fee, upon request by the **Client** for a period of 60 days, the **SELE-DENT** shall continue processing requests for benefit payments under the **Client's** plan incurred prior to the date of termination. The fees for such 60 days shall equal the monthly fees set forth in paragraph 2 of this Agreement. If the Parties agree that **SELE-DENT** shall continue processing beyond these 60 days, it shall be upon such terms and fees as then agreed upon by the parties. If the parties agree that **SELE-DENT** shall not continue processing claims after 60 days and **SELE-DENT** continues to receive claims after **SELE-DENT** complies with the terms of Paragraph (c), below, **SELE-DENT** will expeditiously forward such claims to the **Client**.
 - b) All checks issued by **SELE-DENT** that are outstanding upon the termination of this Agreement will continue to be the responsibility and liability of the **Client**.
 - c) Within 15 days of the date after **SELE-DENT'** services are completed under (a), above, **SELE-DENT** will forward all unprocessed and/or unpaid claim materials, as well as hard copy reports identifying any claims history on paid claims to the extent not previously delivered, to the UNION or its designee ("Claims History Reports").
 - d) All **CLIENTS** due and owing **SELE-DENT** upon the effective date of termination shall be forwarded to **SELE-DENT** within 15 days of termination.
 - e) Provided the **Client** has timely paid all monies due hereunder, **SELE-DENT** agrees to cooperate in every reasonable way upon termination of this Agreement to provide for an efficient, orderly, professional, and timely transfer of administrative functions. This shall include providing upon the **Client's** request such reports as claims history on paid claims, annual and lifetime accumulators, and other data necessary to transfer administrative functions.
14. This Agreement shall be governed by the laws of the State of New York to the extent not preempted by federal law. This Agreement may not be modified or amended except by a writing signed by the parties hereto.
15. The forbearance, neglect or failure by either party to enforce any or all the provisions of this Agreement or to insist upon a strict compliance shall not be construed as a waiver of any rights or privileges. A waiver of a past act or circumstance shall not be construed to be a course of conduct or waiver of any subsequent act or circumstance.
16. This Agreement may be executed in counterpart copies, each of which shall be deemed an original, but all of which shall be considered the same instrument.
17. This Agreement pertains to both Summary Plan Descriptions previously submitted to the Client. Additionally, the dental plan employee communication materials, and implementation mailing will be designed and executed by the Sele-Dent office, at no cost to the Client.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SELE-DENT, INC.

BY:



NAME: **Anne M. Maloney**

TITLE: **President**

Hauppauge Union Free School District

BY: _____ BY: _____

NAME: _____ NAME: _____

SCHEDULE A

CLAIM SERVICES

1. Design of the claim payment form.
2. Design of claim and administrative forms.
3. Install claim procedures with **Client** personnel.
4. Advise the **Client** regarding internal claim procedures.
5. Conduct necessary claim inquiries and implement procedures appropriate to Benefit Plan provisions, such as coordination of benefits, pre-existing condition limitations, establishing proper expense level, subrogation matters, etc.
6. Process all claims for benefit payments, including preparation of payment for statistical coding.
7. Provide the **Client** with copies of all benefit payments.

8. Provide monthly claim data.
9. Provide necessary benefit payment data and other information or documents relating to the **Client** necessary for the **Client** to comply with applicable governmental and other filing requirements.
10. Provide annual claim data analysis reports.
11. Provide loss control services.

12. Provide certification of benefit eligibility to vendors.
13. Review and make recommendations regarding Plan administration procedures and personnel requirements.
14. Communicate all actions taken in processing claims to the Plan participant by letter or Explanation of Benefit as the action is taken.
15. Notify Plan participants of rejected claims and the reason for the rejection.
16. Investigate unusual claims, and, when necessary, utilize Medical or Dental Consultants in advising the **Client** regarding specific claims situations.

17. Review claims with the attending Dentist or other service provider, when necessary.
18. If a claim goes into litigation, **SELE-DENT** will provide the **Client** with copies of correspondence, pleadings, reports and other documents pertinent to the particular claim or loss.
19. Preparation and filing of Form 1099 required by the IRS.
20. Identify and bring to the **Client's** attention possible subrogation actions.
21. Advise the **Client** as to matters that come to its attention involving legal actions involving the Plan and promptly advise the **Client** of legal actions commenced against the **Client** that comes to its attention.
22. Assist **Client** counsel, auditors, accountants, or other **Client** service providers as needed.
23. **Access to over 3,000 Participating Sele-Dent Providers in the New York tri-State area.**

HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement ("Agreement") is made and entered into this day of _____, 2023, by and between the **Hauppauge Union Free School District** ("Covered Entity") and **Sele-Dent, Inc.** ("Business Associate"). Covered Entity and Business Associate are each a "Party" and collectively referred to herein as the "Parties."

RECITALS

A. Covered Entity and Business Associate have entered or may enter into one or more service agreements (collectively the "Service Agreement") pursuant to which Business Associate is or will be providing those certain agreed upon services for and on behalf of Covered Entity, some of which may involve Business Associate's Use, Disclosure or creation of Protected Health Information.

B. Covered Entity and Business Associate intend to protect the privacy and provide for the security of Protected Health Information received, created, Used, and Disclosed to or by Business Associate pursuant to the Service Agreement in compliance with HIPAA and HITECH (each as defined below).

C. As part of HIPAA and HITECH, the Standards for Privacy and the Standards for Security of Individually Identifiable Health Information codified at 45 CFR Parts 160, 162 and 164 Covered Entity is required to enter into a contract with Business Associate that includes and imposes on Business Associate specific duties, obligations and requirements with respect to Business Associate's Use, Disclosure, creation and general handling of Protected Health Information, as set forth in, but not limited to, Title 45, §§ 164.502(e) and 164.504(e) of the Code of Federal Regulations ("CFR") and as otherwise provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the Parties agree as follows:

1. Definitions.

a. Specific Definitions.

- (i) "Breach" shall have the meaning given to such term under the Privacy Rule, at 45 CFR § 164.402.
- (ii) "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to this Agreement, shall mean Sele-Dent, Inc., set forth above.
- (iii) "Compliance Date" shall mean, in each case, the date by which compliance with a particular provision is required under HITECH; provided that, in any case for which that date occurs prior to the effective date of this Agreement, the Compliance Date shall mean the effective date of this Agreement.
- (iv) "Covered Entity" shall generally have the same meaning as the term "covered entity" at CFR 160.103, and in reference to this Agreement, shall mean Hauppauge Union Free School District, set forth above.

- (v) "Data Aggregation" shall have the meaning given to such term under the Privacy Rule at 45 CFR § 164.501.
- (vi) "Designated Record Set" shall have the meaning given to such term under the Privacy Rule, at 45 CFR § 164.501.
- (vii) "Electronic Health Record" shall have the meaning given to such term in 42 USC 17921(5).
- (viii) "Electronic Media" has the meaning in 45 CFR §160.103, which is:
 - A. Electronic storage media including memory devices in computers (hard drives) and any removable or transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or
 - B. Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet, leased lines, dialup lines, private networks, and the physical movement of removable or transportable electronic storage media. Certain transmissions, including paper, via facsimile, and via telephone, are not considered transmissions via electronic media because the information did not exist in electronic form before the transmission.
- (ix) "Electronic Protected Health Information" (or "EPHI") shall mean protected health information contained in or transmitted on electronic media as defined in 45 CFR § 160.103.
- (x) "Health Care Operations" shall have the meaning given to such term under the Privacy Rule at 45 CFR 164.501.
- (xi) "HIPAA" shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended from time to time and by the HITECH Act (defined below), and all associated existing and future laws and implementing regulations, when effective and as amended from time to time.
- (xii) "HITECH" shall mean Subtitle D of the Health Information Technology for Economic and Clinical Health Act (a.k.a. the "HITECH Act") provisions of the American Recovery and Reinvestment Act of 2009, Public Law 111-005, 42 U.S.C. §§17921-17953, as amended from time to time, and all associated existing and future laws and implementing regulations, when effective and as amended from time to time.
- (xiii) "Individual" shall mean the person who is the subject of PHI and shall include a person who qualifies as a personal representative in accordance with the Privacy Rule.
- (xiv) "Privacy Rule" shall mean the standard for Privacy of Individually Identifiable Health Information codified at 45 CFR Parts 160 and 164, Subparts A and E.

- (xv) "Protected Health Information" ("or PHI") has the meaning in 45 CFR § 160.103.
- (xvi) "Required by Law" shall mean a mandate contained in law that compels a covered entity to make a use or disclosure of PHI and that is enforceable in a court of law.
- (xvii) "Security Rule" shall mean the standard for Security of Individually Identifiable Health Information codified at 45 CFR Parts 160, 162 and 164.
- (xviii) "Security Incident" has the meaning in 45 CFR § 164.304, which is the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- (xix) "Subcontractor" shall have the meaning given to such term at 45 CFR § 160.103 and includes any agent/agency relationships.
- (xx) "Unsecured Protected Health Information" (or "Unsecured PHI") has the meaning in 45 CFR 164.402, which is Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the regulations or guidance issued pursuant to 42 U.S.C. §§17932(h)(2).

b. Catch-all Definition. Terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy Rule and Security Rule. This includes, but is not limited to, the following terms: "Disclosure," "Minimum Necessary," "Secretary" and "Use."

2. Obligations of Business Associate.

a. Permitted Uses. Business Associate shall not Use PHI except for the purpose of performing Business Associate's obligations under the Service Agreement, as permitted or required by this Agreement or as Required by Law. Further, Business Associate shall not Use PHI in any manner that would constitute a violation of the Privacy Rule if so Used by Covered Entity. However, Business Associate may (i) Use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate, and (ii) provide Data Aggregation services relating to the health care operations of Covered Entity if such services are provided by Business Associate to Covered Entity pursuant to the Agreement.

b. Permitted Disclosures. Business Associate shall not Disclose PHI in any manner that would constitute a violation of HITECH and/or HIPAA (including without limitation the Privacy Rule) if Disclosed by Covered Entity. However, Business Associate may Disclose PHI in a manner permitted pursuant to the Agreement for the proper management and administration of Business Associate and as Required by Law. Additionally, Business Associate may Disclose PHI in a manner allowed by law if Covered Entity specifically authorizes the Disclosure. In no event shall Business Associate be permitted to receive remuneration, either directly or indirectly, in exchange for PHI, except as may be approved by Covered Entity in its sole discretion and then, only to the extent permitted by 42 U.S.C. § 17935(d). To the extent that Business Associate Discloses PHI to a third

party, Business Associate must, prior to making any such Disclosure, obtain (i) reasonable assurances from such third party, evidenced by written contract, that such PHI will be held confidential as provided pursuant to this Agreement and only Disclosed as Required by Law or for the purposes for which it was Disclosed to such third party, and (ii) an agreement in writing from such third party to immediately notify Business Associate of any breaches of confidentiality of the PHI, to the extent it has obtained knowledge of such breach.

c. Appropriate Safeguards.

- (i) Business Associate will comply with all applicable federal and state laws and regulations and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity as required by the Security Rule and, as of the Compliance Date of 42 U.S.C. § 17931, will comply with the Security Rule requirements set forth in 45 CFR §§ 164.308, 164.310, 164.312, and 164.316;
- (ii) Business Associate agrees that, in accordance with 45 CFR § 164.504(e)(2)(ii)(D), it will ensure that any agent, including a Subcontractor, that creates, receives, maintains or transmits PHI from or on behalf of Business Associate agrees in writing to the same restrictions and conditions that apply to Business Associate with respect to that PHI; and
- (iii) Business Associate will report, in writing, to Covered Entity (i) any Use or Disclosure of PHI not provided for by this Agreement of which it becomes aware in accordance with 45 CFR § 164.504(e)(2)(ii)(C); and/or (ii) any Security Incident affecting EPHI of which Business Associate becomes aware in accordance with 45 CFR § 164.314(a)(2)(C), as soon as reasonably practicable, but in no event later than five (5) calendar days from when it first discovered said Use, Disclosure or Security Incident.

This written report must include, at a minimum, the identification of each Individual whose PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed and all other information requested by Covered Entity for purposes of investigating the Breach.

- (iv) Business Associate agrees to promptly report to Covered Entity, in writing, any Breach of which it becomes aware as soon as reasonably practicable, but in no event later than five (5) calendar days following Business Associate's discovery of any Breach involving PHI or Unsecured PHI. The foregoing written report shall include the identification of each Individual whose PHI or Unsecured PHI has been or is reasonably believed by Business Associate to have been accessed, acquired, Used or Disclosed during such Breach.

As soon as possible thereafter, but in no case later than 30 calendar days after discovery of the Breach, Business Associate shall also provide Covered Entity with, to the extent known, a description of (i) what happened, including the date

of the Breach and the date of the discovery of the Breach, (ii) the types of PHI or Unsecured PHI involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved), (iii) any steps Individuals should take to protect themselves from potential harm resulting from the Breach, and (iv) what Business Associate is doing to investigate the Breach, to mitigate harm to Individuals and to protect against any further Breaches. For purposes of this paragraph, a Breach shall be treated as discovered as of the first day on which the Breach is known or should reasonably have been known to Business Associate (including any person, other than the one committing the Breach, that is an employee, officer, or other agent of the Business Associate).

- (v) Business Associate will cooperate with Covered Entity in investigating a Breach and in meeting Covered Entity's obligations pursuant to applicable Breach notification laws. Business Associate will also provide any notices required by HIPAA or HITECH to Individuals and applicable regulators on behalf of Covered Entity.
- (vi) Business Associate will mitigate, to the extent practicable, any harmful effects that are known to Business Associate of a Use or Disclosure of PHI that is in violation of the requirements of this Agreement or that would otherwise cause a Breach of Unsecured PHI.
- (vii) Business Associate has no knowledge of any Breach with respect to Disclosure or Use of PHI or Electronic PHI either on behalf of itself or its agents or Subcontractors occurring on or after July 1, 2023 (the date of the Service Agreement between Business Associate and Covered Entity) and the date of this Agreement.

d. Restrictions on Disclosures. Business Associate will restrict its Disclosures of the Individual's PHI in the same manner as would be required for Covered Entity. If Business Associate receives an Individual's request for restrictions, Business Associate shall forward such request to Covered Entity within ten (10) business days.

e. Subcontractors. Business Associate shall ensure that any Subcontractor to whom it provides PHI agrees in writing to the same restrictions and conditions that apply to Business Associate with respect to such PHI. Business Associate will provide a list of such Subcontractors to Covered Entity upon its request. Business Associate will advise Covered Entity if any such Subcontractor breaches its agreement with Business Associate with respect to the Disclosure or Use of PHI or Electronic PHI as soon as reasonably practicable, but in no event later than five (5) calendar days of when Business Associate first discovered said Disclosure or Use. Business Associate shall implement and maintain sanctions against Subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation.

f. Access to Protected Information. Business Associate shall make PHI maintained by Business Associate or its agents or Subcontractors in Designated Record Sets available to Covered Entity for inspection and copying within ten (10) calendar days of a request by Covered Entity to

enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to 45 CFR § 164.524, or sooner than ten (10) calendar days if necessary to enable Covered Entity to act on a request for access within the time frame required by 45 CFR § 164.524.

g. Amendment of PHI. Within thirty (30) calendar days of receipt of a request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, or sooner than thirty (30) calendar days if necessary to enable Covered Entity to act on a request for an amendment within the time frame required by 45 CFR § 164.526, Business Associate or its agents or Subcontractors shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526. If any individual requests an amendment of PHI directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within ten (10) calendar days of the request. Any decision to deny the requested amendment of PHI maintained by Business Associate or its agents or Subcontractors shall be the sole responsibility of Covered Entity.

h. Accounting Rights. Within thirty (30) calendar days of notice by Covered Entity of a request for an accounting of Disclosures of PHI, or sooner than thirty (30) calendar days if necessary to enable Covered Entity to act on a request for an accounting of Disclosures within the time frame required by 45 CFR § 164.528, Business Associate and its agents or Subcontractors shall make available to Covered Entity the information required to provide an accounting of Disclosures to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.528. As set forth in, and as limited by, 45 CFR § 164.528, Business Associate shall not provide an accounting to Covered Entity of Disclosures: (i) to carry out treatment, payment or health care operations, as set forth in 45 CFR § 164.502; (ii) to Individuals of PHI about them as set forth in 45 CFR § 164.502; (iii) to persons involved in the Individual's care or other notification purposes as set forth in 45 CFR § 164.510; (iv) for national security or intelligence purposes as set forth in 45 CFR § 164.512(k)(2); or (v) to correctional institutions or law enforcement officials as set forth in 45 CFR § 164.512(k)(5). Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or Subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule. At a minimum, such information shall include: (i) the date of Disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI Disclosed; and (iv) a brief statement of purpose of the Disclosure that reasonably informs the Individual of the basis of the Disclosure, or a copy of the Individual's authorization, or a copy of the written request for Disclosure. In the event that the request for an accounting is delivered directly to Business Associate or its agents or Subcontractors, Business Associate shall within ten (10) calendar days of a request forward it to Covered Entity in writing. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested unless Covered Entity provides the request for an accounting of Disclosures to Business Associate in accordance with this Agreement. Business Associate shall not Disclose any PHI except as set forth in Sections 2(b) of this Agreement.

i. Governmental Access to Records. Within thirty (30) calendar days, or earlier if so directed, of receipt of a request Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining Covered Entity's

compliance with Privacy Rule. Business Associate shall provide to Covered Entity a copy of any PHI that Business Associate provides to the Secretary concurrently with providing such PHI to the Secretary.

j. Minimum Necessary. Business Associate (and its agents and Subcontractors) shall only request, Use and Disclose the minimum amount of PHI necessary to accomplish the purpose of the request, Use or Disclosure and consistent with Covered Entity's minimum necessary policies and procedures.

k. Data Ownership. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.

l. Retention of PHI. Upon termination of the Agreement for any reason, Business Associate shall: (i) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities, (ii) return to Covered Entity or destroy at Covered Entity's option all of the remaining PHI that Business Associate or its agents or Subcontractors still maintain in any form and shall retain no copies of such PHI, (iii) continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 614 with respect to Electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI, (iv) not use or disclose the PHI retained by Business Associate other than for the purpose for which such PHI was retained and subject to the same conditions set out above which applied prior to termination, and (v) return to Covered Entity or destroy at Covered Entity's option the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities. If return or destruction is not lawful or is otherwise not feasible, Business Associate shall continue to extend the protections of this Agreement, including, but not limited to, Sections 2(a), 2(b), 2(c) and 2(e) of this Agreement, to such information, and shall limit further Use of such PHI to those lawful purposes that make the return or destruction of such PHI infeasible. If Business Associate at Covered Entity's request destroys the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed. The provisions of this Section 2(l) will survive the cancellation, termination, expiration or other conclusion of this Agreement and the Service Agreement.

m. Audits, Inspections and Enforcement. Within thirty (30) calendar days of a written request by Covered Entity, Business Associate and its agents or Subcontractors shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the Use or Disclosure of PHI pursuant to this Agreement for the purpose of determining whether Business Associate has complied with this Agreement; provided, however, that (i) Business Associate and Covered Entity shall mutually agree in advance upon the scope, timing and location of such an inspection; (ii) Covered Entity shall protect the confidentiality of all confidential and proprietary information of Business Associate to which Covered Entity has access during the course of such inspection; and (iii) Covered Entity shall execute a nondisclosure agreement, upon terms mutually agreed upon by the Parties, if requested by Business Associate. The fact that Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this Agreement, nor does Covered Entity's (i) failure to detect or (ii) detection, but failure to notify Business Associate or require Business Associate's

remediation, of any unsatisfactory practices, constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Agreement.

n. Electronic Health Record. In the event that Business Associate in connection with rendering the services under the Service Agreement or this Agreement uses or maintains an electronic health record of protected health information of or about an Individual, the Business Associate will provide an electronic copy of such protected health information in accordance with 42 U.S.C. § 17935(e) as of its Compliance Date. Moreover, in the event that Business Associate uses or maintains an electronic health record of protected health information of or about an Individual, then Business Associate shall make an accounting of Disclosures of such protected health information in accordance with the requirements for accounting of Disclosures made through an electronic health record in 42 U.S.C. 17935(c), as of its Compliance Date.

o. Business Associate will not make or cause to be made any communication about a product or service that is prohibited by 42 U.S.C. § 17936(a) as of its Compliance Date.

p. Business Associate will not make or cause to be made any written fundraising communication that is prohibited by 42 U.S.C. § 17936(b) as of its Compliance Date.

q. Pursuant to the Privacy Rule, made applicable to Business Associate by HITECH, Business Associate shall adopt, implement, and follow privacy policies and procedures in the same manner and to the same extent as if it were a Covered Entity.

r. Pursuant to the Security Rule, made applicable to Business Associate by HITECH, Business Associate shall adopt, implement, and follow security policies and procedures in the same manner and to the same extent as if it were a Covered Entity.

s. To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate will comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).

3. Obligations of Covered Entity.

a. Covered Entity shall be responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to Business Associate pursuant to this Agreement, in accordance with the Covered Entity and requirements of the Privacy Rule, until such PHI is received by Business Associate.

b. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.

c. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to Use or Disclose PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.

d. Covered Entity shall notify Business Associate of any restriction to the Use or Disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

4. Term and Termination.

a. Term. The Term of this Agreement will be effective as of the effective date of this Agreement or as of the effective date of the Service Agreement, whichever is later, and will terminate as of one of the following events: (i) the date of termination of the Service Agreement; (ii) the date one of the Parties terminates this Agreement pursuant to this Section 4; or (iii) the date when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with Section 2(l) of this Agreement.

Either Party may terminate this Agreement with or without cause upon sixty (60) calendar days' written notice to the other Party, which will also serve to simultaneously terminate the Service Agreement.

b. Material Breach. Without limiting the rights of the Parties set forth in the Service Agreement and notwithstanding any provision to the contrary set forth herein, a breach by Business Associate of any provision of this Agreement, as determined by Covered Entity, shall constitute a material breach of this Agreement and shall provide grounds for immediate termination of this Agreement and the Service Agreement by Covered Entity.

c. Reasonable Steps to Cure Breach. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under the provisions of this Agreement or another arrangement and does not terminate the Agreement pursuant to Section 4(b), then Covered Entity shall take reasonable steps to cure such breach or end such violation, as applicable. If Covered Entity's efforts to cure such breach or end such violation are unsuccessful, Covered Entity shall either (i) terminate the Agreement, if feasible, or (ii) if termination of the Agreement is not feasible, Covered Entity shall report Business Associate's breach or violation to the Secretary of the Department of Health and Human Services.

d. Judicial or Administrative Proceedings. Either Party may terminate the Agreement, effective immediately, if (i) the other Party is named as a defendant in a criminal proceeding for a violation of HIPAA, HITECH or other security or privacy laws or (ii) a finding or stipulation that the other Party has violated any requirement of HIPAA, HITECH or other security or privacy laws is made in any administrative or civil proceeding in which the Party has been joined.

5. Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement, HIPAA or HITECH will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

6. Certifications. To the extent Covered Entity determines that such examination is necessary to comply with Covered Entity's legal obligations pursuant to HIPAA and HITECH relating to

certification of its security practices, Covered Entity or its authorized agents or contractors, may, at Covered Entity's expense, examine Business Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to Covered Entity the extent to which Business Associate's security safeguards comply with HIPAA, HITECH or this Agreement.

7. Amendment to Comply with Law. The Parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The Parties specifically agree to take such action as is necessary to implement the amendments and requirements of HIPAA (including without limitation the Privacy Rule), HITECH and other applicable laws relating to the security or confidentiality of PHI. The Parties understand and agree that Covered Entity must receive satisfactory written assurance from Business Associate that Business Associate will adequately safeguard all PHI. Upon the request of either Party, the other Party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the amendments and requirements of HIPAA (including without limitation the Privacy Rule), HITECH or other applicable laws. Covered Entity may terminate the Agreement upon thirty (30) calendar days written notice in the event (i) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by Covered Entity pursuant to this Section or (ii) Business Associate does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the Covered Entity and requirements of HIPAA, including without limitation the Privacy Rule, and HITECH.

8. Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself, and any Subcontractors, employees or agents assisting Business Associate in the performance of its obligations under the Agreement, available to Covered Entity, at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers or employees based upon a claimed violation of HIPAA, including without limitation the Privacy Rule, HITECH or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its Subcontractor, employee or agent is a named adverse party.

9. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

10. No Assignment. Business Associate is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of Business Associate's rights, title, or interest in this Agreement, or Business Associate's authority to execute this Agreement to any other person or corporation without the previous consent in writing from Covered Entity.

11. Indemnification. In addition to any indemnification obligations, which are a part of the Service Agreement, to the fullest extent permitted by law, Business Associate agrees to indemnify, defend (with counsel selected by Covered Entity) and hold harmless the Covered Entity and Covered Entity's board of education members, officers, employees, agents, successors and assigns from and against any and all claims, liabilities, losses, settlements, judgments, obligations, costs or damage,

including civil monetary penalties and reasonable attorneys' fees, arising from a breach by the Business Associate of its obligations in connection with this Agreement or HITECH, or HIPAA.

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 Business Associate pursuant to the provisions of this Section 11, Covered Entity will promptly notify Business Associate of such proceeding, suit, claim or demand, and give Business Associate an opportunity to defend and settle same without any cost to Covered Entity, and will extend reasonable cooperation to Business Associate in connection with such defense, which will be at the expense of Business Associate. In the event that Business Associate fails to defend the same within thirty (30) calendar days of receipt of notice, Covered Entity will be entitled to assume the defense thereof, and Business Associate will be liable to repay Covered Entity for all its expenses reasonably incurred in connection with the defense (including reasonable attorneys' fees, disbursements, expert witness fees and settlement payments).

The provisions of this Section 11 will survive the cancellation, termination, expiration or other conclusion of this Agreement and the Service Agreement.

12. Interpretation. This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and HITECH. The Parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA and HITECH in light of any interpretation and/or guidance on HIPAA, the Privacy Regulation and/or the Security Regulation issued by the Secretary from time to time.

13. Notices. Any notices required or permitted to be given pursuant to the terms of this Agreement will be in writing and either personally delivered, sent by overnight carrier or sent by registered or certified mail to the Parties at the following addresses:

To Business Associate:

Sele-Dent, Inc.
One Huntington Quadrangle
Suite 1S03
Melville, NY 11747

To Covered Entity:

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

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

14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall be considered the same instrument. Facsimile or pdf copies hereof shall be deemed to be originals.

15. Governing Law, Choice of Forum and Waiver of Jury Trial. Except to the extent preempted by federal law, 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 law provisions thereof. Any dispute arising pursuant to this Agreement will be litigated in a New York State Court located in Suffolk County, New York. The Parties each waive trial by jury in any action concerning this Agreement.

16. Conflicts and Entire Agreement. The provisions of this Agreement will override and control any conflicting provision of the Service Agreement. All other provisions of the Service Agreement remain unchanged by this Agreement and are in full force and effect. This Agreement will replace and supersede any prior business associate agreements executed between the Parties relating to the Service Agreement. This Agreement contains the entire agreement of the Parties with regard to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, between the Parties.

17. Modification. This Agreement may not be changed orally, but only by an agreement in writing signed by both Parties. 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 breach.

[Signatures Immediately Following]

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement to be effective as of the date first written above.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

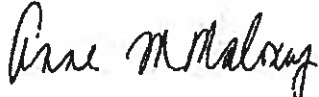
BY: _____

Name: _____

Title: _____

Address: _____

SELE-DENT, INC.

BY: 

Name: **Anne M Maloney**

Title: **President**

Address: **One Huntington Quadrangle, Suite 1S03 Melville, NY 11747**



HAUPPAUGE PUBLIC SCHOOLS

7.3. A.8

495 Hoffman Lane
P.O. Box 6006
Hauppauge, New York 11788

CATHERINE FREEMAN

Interim Assistant Superintendent for Business & Operations

TO: Board of Education

FROM: Catherine Freeman 

RE: Wisdom Protective Services - Security Director

DATE: July 20, 2023

The district is extending the Security Director contract with Wisdom Protective Services through December 30, 2023.

FOURTH AMENDMENT TO
CONSULTANT SERVICES CONTRACT
AND
THE ASSOCIATED DATA PRIVACY AGREEMENT

This Amendment ("Amendment 4") to (1) the Consultant Services Contract between Hauppauge Union Free School District and SIMAREN Corp. dba Wisdom Protective Services for the provision of consulting services for the 2020-2021 school year ("the Contract") and (2) the associated Data Privacy Agreement ("DPA") is made and entered into as of July 1, 2023. The Hauppauge Union Free School District ("the District") and SIMAREN Corp. dba Wisdom Protective Services ("Consultant") are collectively referred to herein as the "Parties" and individually as a "Party."

WHEREAS the District and Consultant entered the Contract for the provision of consulting services for the 2020-2021 school year; and

WHEREAS the District and Consultant extended the Contract for the 2021-2022 school year pursuant to an Amendment to the Contract made and entered into as of July 1, 2021 ("Amendment 1"); and

WHEREAS the District and Consultant further extended the Contract for the 2022-2023 school year pursuant to the Second Amendment to the Contract made and entered into as of July 1, 2022 ("Amendment 2"); and

WHEREAS the District and Consultant modified the Basis Paragraph pursuant to the Third Amendment to the Contract made and entered as of October 18, 2022 ("Amendment 3"); and

WHEREAS the District and Consultant entered into an associated DPA; and

NOW, THEREFORE, the parties agree as follows:

1. Effective as of July 1, 2023, the Term of the Contract is extended to December 31, 2023.
2. Schedule A of the Contract is modified as follows:
 - a. The Basis Paragraph is deleted and replaced in its entirety with the following:
Basis: \$11,007.16 per month,,
 - b. The Completion Date is changed to December 31, 2023.
4. Exhibit B to the DPA is replaced with the revised Exhibit B annexed to this Amendment 4. The Consultant must sign the revised Exhibit B.
5. The Consultant hereby represents and warrants that there are no changes to the Consultant's Data Security and Privacy Plan attached to the DPA as Exhibit C.
6. Except as expressly amended or modified by this Amendment 4, the Contract, as amended or modified by Amendment 1, Amendment 2 and Amendment 3 continues, and remains in full force and effect.

8. This Amendment 4 shall be governed by the laws of the State of New York.
9. This Amendment 4 may be executed in one or more counterparts, all of which will be considered one and the same agreement. This Amendment 4 may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

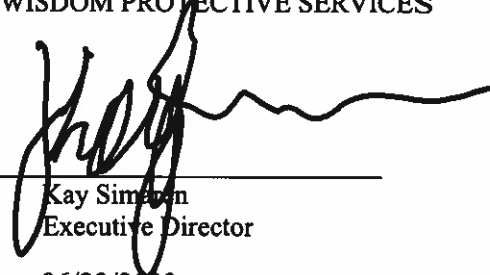
IN WITNESS WHEREOF, the parties hereto have executed this Amendment 2 on the dates written below.

HAUPPAUGE UNION FREE
SCHOOL DISTRICT

By: David Barshay
President, Board of Education

Date: _____

SIMAREN CORP
dba WISDOM PROTECTIVE SERVICES

By: 
Kay Simaren
Executive Director

Date: 06/22/2023

EXHIBIT B: BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY -

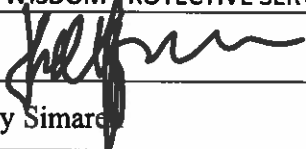
SUPPLEMENTAL INFORMATION FOR CONTRACTS THAT UTILIZE PERSONALLY IDENTIFIABLE INFORMATION

Pursuant to Education Law § 2-d and 8 NYCRR § 121.3, the District is required to post information to its website about its contracts with third-party contractors ("Service Agreements") that will receive Personally Identifiable Information ("PII") from Student Data or Teacher or Principal APPR Data.

SIMAREN CORP D/B/A WISDOM PROTECTIVE SERVICES	
Term of Service Agreement	Agreement Start Date: July 1, 2020 Agreement End Date: December 31, 2023
Description of the purpose(s) for which Contractor will receive/access/use PII	PII received by the Contractor will be received, accessed and used only to perform the Contractor's Services pursuant to the Service Agreement with the District. List Purposes: Provision of security consulting services to the District.
Type of PII that Contractor will receive/access	Check all that apply: <input checked="" type="checkbox"/> Student PII <input type="checkbox"/> Teacher or Principal APPR Data
Subcontractor Written Agreement Requirement	The Contractor will only share PII with entities or persons authorized by the Service Agreement. The Contractor will not utilize Subcontractors without written contracts that require the Subcontractors to adhere to, at a minimum, materially similar data protection obligations imposed on the contractor by state and federal laws and regulations, and the Service Agreement. Check applicable option. <input checked="" type="checkbox"/> Contractor will not utilize Subcontractors. <input type="checkbox"/> Contractor will utilize Subcontractors.
Data Transition and Secure Destruction	Upon expiration or termination of the Service Agreement, the Contractor will, as directed by the District in writing: <ul style="list-style-type: none">Securely transfer data to District, or a successor contractor at the District's option and written discretion, in a format agreed to by the parties.

	<ul style="list-style-type: none"> Securely delete and destroy data by taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means.
Challenges to Data Accuracy	<p>Parents, students, teachers or principals who seek to challenge the accuracy of PII will do so by contacting the District. If a correction to data is deemed necessary, the District will notify the Contractor. The Contractor agrees to facilitate such corrections within 21 calendar days of receiving the District's written request.</p>
Secure Storage and Data Security	<p>The Contractor will store and process PII from Student Data or Teacher or Principal APPR Data in compliance with § 2-d(5) and applicable regulations of the Commissioner of Education, 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 Service Agreement. The Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.</p> <p>Please describe where PII will be stored and the security protections taken to ensure PII will be protected and data security and privacy risks mitigated in a manner that does not compromise the security of the data:</p> <p>(a) Storage of Electronic Data (check all that apply):</p> <p><input type="checkbox"/> Using a cloud or infrastructure owned and hosted by a third party.</p> <p><input type="checkbox"/> Using Contractor owned and hosted solution</p> <p>X Other: The Contractor represents and warrant that it will not store PII obtained from Student Data or Teacher or Principal APPR Data from the District electronically.</p> <p>(b) Storage of Non-Electronic Data: The Contractor represents that it will not store PII obtained from Student Data or Teacher or Principal APPR Data in any form.</p> <p>(c) Security Protections: Neither the District nor Contractor will communicate any PII from Student Data or Teacher or Principal APPR Data electronically to the other party, unless the communication occurs on the District's computer network or another secure portal that the District owns and maintains. The District is advised that it may communicate verbally to the</p>

	Contractor's Executive Director who will ensure that dissemination of that information will be made verbally only to those who need such information to perform the Services or through the District's computer network or another secure portal that the District owns and maintains.
Encryption	If, at any time, PII from Student Data or Teacher or Principal APPR Data is received, the PII will be encrypted while in motion and at rest.

SIMAREN CORP D/B/A WISDOM PROTECTIVE SERVICES	
By: (Signature)	
(Printed Name)	Kay Simare
(Title)	CEO
Date:	06/22/2023

**THIRD AMENDEMENT TO
CONSULTANT SERVICES CONTRACT
AND
THE ASSOCIATED DATA PRIVACY AGREEMENT**

This Amendment ("Amendment 3") to (1) the Consultant Services Contract between Hauppauge Union Free School District and SIMAREN Corp. dba Wisdom Protective Services for the provision of consulting services for the 2020-2021 school year ("the Contract") and (2) the associated Data Privacy Agreement ("DPA") is made and entered into as of October 1, 2022. The Hauppauge Union Free School District ("the District") and SIMAREN Corp. dba Wisdom Protective Services ("Consultant") are collectively referred to herein as the "Parties" and individually as a "Party."

WHEREAS the District and Consultant entered the Contract for the provision of consulting services for the 2020-2021 school year; and

WHEREAS the District and Consultant extended the Contract for the 2021-2022 school year pursuant to an Amendment to the Contract made and entered into as of July 1, 2021 ("Amendment 1"); and

WHEREAS the District and Consultant further extended the Contract for the 2022-2023 school year pursuant to the Second Amendment to the Contract made and entered into as of July 1, 2022 ("Amendment 2"); and

WHEREAS the District and Consultant entered into an associated DPA; and

WHEREAS, pursuant to paragraph 2(a) of Amendment 2, new rates were accepted by Eastern Suffolk BOCES pursuant to a request for proposals;

NOW, THEREFORE, the parties agree as follows:

1. Effective as of October 1, 2022, the Basis Paragraph is deleted and replaced in its entirety with the following:

"Basis: \$ 11,007.16 per month ."
2. Except as expressly amended or modified by this Amendment 3, the Contract, as amended or modified by Amendment 1 and Amendment 2 continues, and remains in full force and effect.
3. This Amendment 3 will be governed by the laws of the State of New York.
4. This Amendment 3 may be executed in one or more counterparts, all of which will be considered one and the same agreement. This Amendment 3 may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

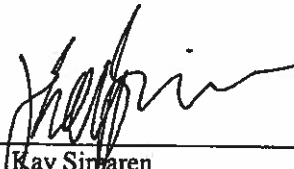
IN WITNESS WHEREOF, the parties hereto have executed this Amendment 3 on the dates written below.

HAUPPAUGE UNION FREE
SCHOOL DISTRICT

SIMAREN CORP
dba WISDOM PROTECTIVE SERVICES

By:  
David Barshan
President, Board of Education

Date: 10/18/22

By: 
Kay Simaren
Executive Director

Date: 10/7/22

EXHIBIT B: BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY -

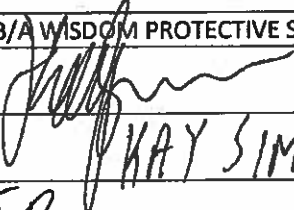
SUPPLEMENTAL INFORMATION FOR CONTRACTS THAT UTILIZE PERSONALLY IDENTIFIABLE INFORMATION

Pursuant to Education Law § 2-d and 8 NYCRR § 121.3, the District is required to post information to its website about its contracts with third-party contractors ("Service Agreements") that will receive Personally Identifiable Information ("PII") from Student Data or Teacher or Principal APPR Data.

SIMAREN CORP D/B/A WISDOM PROTECTIVE SERVICES	
Term of Service Agreement	Agreement Start Date: July 1, 2020 Agreement End Date: June 30, 2023
Description of the purpose(s) for which Contractor will receive/access/use PII	PII received by the Contractor will be received, accessed and used only to perform the Contractor's Services pursuant to the Service Agreement with the District. List Purposes: Provision of security consulting services to the District.
Type of PII that Contractor will receive/access	Check all that apply: <input checked="" type="checkbox"/> Student PII <input type="checkbox"/> Teacher or Principal APPR Data
Subcontractor Written Agreement Requirement	The Contractor will only share PII with entities or persons authorized by the Service Agreement. The Contractor will not utilize Subcontractors without written contracts that require the Subcontractors to adhere to, at a minimum, materially similar data protection obligations imposed on the contractor by state and federal laws and regulations, and the Service Agreement. Check applicable option. <input checked="" type="checkbox"/> Contractor will not utilize Subcontractors. <input type="checkbox"/> Contractor will utilize Subcontractors.
Data Transition and Secure Destruction	Upon expiration or termination of the Service Agreement, the Contractor will, as directed by the District in writing: <ul style="list-style-type: none"> Securely transfer data to District, or a successor contractor at the District's option and written discretion, in a format agreed to by the parties.

	<ul style="list-style-type: none"> Securely delete and destroy data by taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means.
Challenges to Data Accuracy	<p>Parents, students, teachers or principals who seek to challenge the accuracy of PII will do so by contacting the District. If a correction to data is deemed necessary, the District will notify the Contractor. The Contractor agrees to facilitate such corrections within 21 calendar days of receiving the District's written request.</p>
Secure Storage and Data Security	<p>The Contractor will store and process PII from Student Data or Teacher or Principal APPR Data in compliance with § 2-d(5) and applicable regulations of the Commissioner of Education, 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 Service Agreement. The Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.</p> <p>Please describe where PII will be stored and the security protections taken to ensure PII will be protected and data security and privacy risks mitigated in a manner that does not compromise the security of the data:</p> <p>(a) Storage of Electronic Data (check all that apply):</p> <p><input type="checkbox"/> Using a cloud or infrastructure owned and hosted by a third party.</p> <p><input type="checkbox"/> Using Contractor owned and hosted solution</p> <p>X Other: The Contractor represents and warrant that it will not store PII obtained from Student Data or Teacher or Principal APPR Data from the District electronically.</p> <p>(b) Storage of Non-Electronic Data: The Contractor represents that it will not store PII obtained from Student Data or Teacher or Principal APPR Data in any form.</p> <p>(c) Security Protections: Neither the District nor Contractor will communicate any PII from Student Data or Teacher or Principal APPR Data electronically to the other party, unless the communication occurs on the District's computer network or another secure portal that the District owns and maintains. The District is advised that it may communicate verbally to the</p>

	Contractor's Executive Director who will ensure that dissemination of that information will be made verbally only to those who need such information to perform the Services or through the District's computer network or another secure portal that the District owns and maintains.
Encryption	If, at any time, PII from Student Data or Teacher or Principal APPR Data is received, the PII will be encrypted while in motion and at rest.

SIMAREN CORP D/B/A WISDOM PROTECTIVE SERVICES	
By: (Signature)	
(Printed Name)	KAY SIMAREN
(Title)	CEO
Date:	10/7/2022

**SECOND AMENDMENT TO
CONSULTANT SERVICES CONTRACT
AND
AMENDMENT TO THE ASSOCIATED DATA PRIVACY AGREEMENT**

This Amendment ("Amendment 2") to (1) the Consultant Services Contract between Hauppauge Union Free School District and SIMAREN Corp. dba Wisdom Protective Services for the provision of consulting services for the 2020-2021 school year ("the Contract") and (2) the associated Data Privacy Agreement ("DPA") is made and entered into as of July 1, 2022. The Hauppauge Union Free School District ("the District") and SIMAREN Corp. dba Wisdom Protective Services ("Consultant") are collectively referred to herein as the "Parties" and individually as a "Party."

WHEREAS the District and Consultant entered the Contract for the provision of consulting services for the 2020-2021 school year; and

WHEREAS the District and Consultant extended the Contract for the 2021-2022 school pursuant to an Amendment to the Contract made and entered into as of July 1, 2021 ("Amendment 1"); and

WHEREAS the District and Consultant entered into an associated DPA; and

WHEREAS the District and Consultant have agreed to further extend the Contract for the 2022-2023 school year, and wish to amend the Contract and the DPA to reflect the terms for the 2022-2023 year;

NOW, THEREFORE, the parties agree as follows:

1. Effective as of July 1, 2022, the Term of the Contract is extended to June 30, 2023.
2. Schedule A of the Contract is modified as follows:
 - a. The Basis Paragraph is deleted and replaced in its entirety with the following:

**"Basis: \$9,960.33 per month for July and August 2022
\$10,159.54 for September 2022."**

The amount for the months of October 2022 through June 2023, will be determined pursuant to the Request for Proposals submitted to and accepted by Eastern Suffolk BOCES and accepted by the District in a written Amendment.
 - b. The Completion Date is changed to June 30, 2023.
3. The section of the Contract titled "INSURANCE" is amended as follows:
 - a. Subsection "a. Commercial General Liability Insurance" is amended by adding the following required sublimits:


**\$2,000,000 Products and Completed Operations
\$1,000,000 Sexual Misconduct and Assault
\$100,000 Fire Damage
\$10,000 Medical Expense**
 - b. Subsection "e. Excess Insurance" is amended by adding "and automobile liability

coverage" after "the required general liability coverage.

- c. The second bullet is amended to read: "state that Consultant's coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers with a waiver of subrogation in favor of the District."
4. Exhibit B to the DPA is replaced with the revised Exhibit B annexed to this Amendment 2. The Consultant must sign the revised Exhibit B.
5. The Consultant hereby represents and warrants that there are no changes to the Consultant's Data Security and Privacy Plan attached to the DPA as Exhibit C.
6. Paragraph 14 of the DPA is amended to reflect that the District's Data Protection Officer is now Tim McCarthy with an email address of mccarthy@hauppauge.k12.ny.us.
7. Except as expressly amended or modified by this Amendment 2, the Contract, as amended or modified by Amendment 1 continues, and remains in full force and effect.
8. This Amendment 2 shall be governed by the laws of the State of New York.
9. This Amendment 2 may be executed in one or more counterparts, all of which will be considered one and the same agreement. This Amendment 2 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 executed this Amendment 2 on the dates written below.

HAUPPAUGE UNION FREE
SCHOOL DISTRICT


By: David Barshay
President, Board of Education

Date: 8/23/22

SIMAREN CORP
dba WISDOM PROTECTIVE SERVICES


By: Kay Simaren
Executive Director

Date: 7/25/22

SCHEDULE A
AMENDED FOR JULY 1, 2022 – JUNE 30, 2023

Wisdom Protective Services
837 Old Country Road
Westbury, New York 11590

Basis: \$9,960.33 per month for July and August 2022

\$10,159.54 for September 2022.

The amount for the months of October 2022 through June 2023, will be determined pursuant to the Request for Proposals submitted to and accepted by Eastern Suffolk BOCES and accepted by the District in a written Amendment.

Commencement Date: July 1, 2022

Completion Date: June 30, 2023

Payment Schedule

District will make payment(s) within sixty (60) days of its receipt, review and approval of a proper invoice (form and substance satisfactory to District) for Consultant's services. The invoice must include, at a minimum, total hours, dates that the invoice covers, and total amount due for the period specified.

Description of services/Deliverables/Projects to be Performed

During the term of this AGREEMENT, Consultant shall devote the necessary time, attention and energies to provide Security Director Services to District and shall not be engaged in any other work or employment incompatible with the full and proper conduct of the services performed for District. Consultant will provide services to District on each day that school is open for students and an additional 40 days to be agreed to by the Superintendent of Schools or his designee and Consultant.

EXHIBIT B: BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY -

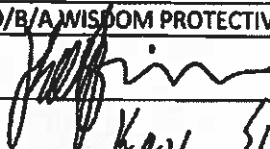
SUPPLEMENTAL INFORMATION FOR CONTRACTS THAT UTILIZE PERSONALLY IDENTIFIABLE INFORMATION

Pursuant to Education Law § 2-d and 8 NYCRR § 121.3, the District is required to post information to its website about its contracts with third-party contractors ("Service Agreements") that will receive Personally Identifiable Information ("PII") from Student Data or Teacher or Principal APPR Data.

SIMAREN CORP D/B/A WISDOM PROTECTIVE SERVICES	
Term of Service Agreement	Agreement Start Date: July 1, 2020 Agreement End Date: June 30, 2023
Description of the purpose(s) for which Contractor will receive/access/use PII	PII received by the Contractor will be received, accessed and used only to perform the Contractor's Services pursuant to the Service Agreement with the District. List Purposes: Provision of security consulting services to the District.
Type of PII that Contractor will receive/access	Check all that apply: <input checked="" type="checkbox"/> Student PII <input type="checkbox"/> Teacher or Principal APPR Data
Subcontractor Written Agreement Requirement	The Contractor will only share PII with entities or persons authorized by the Service Agreement. The Contractor will not utilize Subcontractors without written contracts that require the Subcontractors to adhere to, at a minimum, materially similar data protection obligations imposed on the contractor by state and federal laws and regulations, and the Service Agreement. Check applicable option. <input checked="" type="checkbox"/> Contractor will not utilize Subcontractors. <input type="checkbox"/> Contractor will utilize Subcontractors.
Data Transition and Secure Destruction	Upon expiration or termination of the Service Agreement, the Contractor will, as directed by the District in writing: <ul style="list-style-type: none"> Securely transfer data to District, or a successor contractor at the District's option and written discretion, in a format agreed to by the parties.

	<ul style="list-style-type: none"> Securely delete and destroy data by taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means.
Challenges to Data Accuracy	<p>Parents, students, teachers or principals who seek to challenge the accuracy of PII will do so by contacting the District. If a correction to data is deemed necessary, the District will notify the Contractor. The Contractor agrees to facilitate such corrections within 21 calendar days of receiving the District's written request.</p>
Secure Storage and Data Security	<p>The Contractor will store and process PII from Student Data or Teacher or Principal APPR Data in compliance with § 2-d(5) and applicable regulations of the Commissioner of Education, 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 Service Agreement. The Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.</p> <p>Please describe where PII will be stored and the security protections taken to ensure PII will be protected and data security and privacy risks mitigated in a manner that does not compromise the security of the data:</p> <p>(a) Storage of Electronic Data (check all that apply):</p> <p><input type="checkbox"/> Using a cloud or infrastructure owned and hosted by a third party.</p> <p><input type="checkbox"/> Using Contractor owned and hosted solution</p> <p>X Other: The Contractor represents and warrant that it will not store PII obtained from Student Data or Teacher or Principal APPR Data from the District electronically.</p> <p>(b) Storage of Non-Electronic Data: The Contractor represents that it will not store PII obtained from Student Data or Teacher or Principal APPR Data in any form.</p> <p>(c) Security Protections: Neither the District nor Contractor will communicate any PII from Student Data or Teacher or Principal APPR Data electronically to the other party, unless the communication occurs on the District's computer network or another secure portal that the District owns and maintains. The District is advised that it may communicate verbally to the</p>

	Contractor's Executive Director who will ensure that dissemination of that information will be made verbally only to those who need such information to perform the Services or through the District's computer network or another secure portal that the District owns and maintains.
Encryption	If, at any time, PII from Student Data or Teacher or Principal APPR Data is received, the PII will be encrypted while in motion and at rest.

SIMAREN CORP D/B/A WISDOM PROTECTIVE SERVICES	
By: (Signature)	
(Printed Name)	Kay Simaren
(Title)	Executive Director
Date:	7/25/2022

**AMENDEMENT TO
CONSULTANT SERVICES CONTRACT**

This Amendment ("the Amendment") to the Consultant Services Contract between Hauppauge Union Free School District and SIMAREN Corp. dba Wisdom Protective Services for the provision of consulting services for the 2020-2021 school year ("the Contract") is made and entered into as of July 1, 2021. The Hauppauge Union Free School District ("the District") and SIMAREN Corp. dba Wisdom Protective Services ("Consultant") are collectively referred to herein as the "Parties" and individually as a "Party."

WHEREAS the District and Consultant entered the Contract for the provision of consulting services for the 2020-2021 school year; and

WHEREAS the District and Consultant have agreed to extend the Contract for the 2021-2022 school year, and wish to amend the Contract to reflect the terms for the 2021-2022 year;

NOW, THEREFORE, the parties agree as follows:

1. Effective as of July 1, 2021, the Term of the Contract is extended to June 30, 2022.
2. Schedule A of the Contract is modified as follows:
 - a. The Basis Paragraph is deleted and replaced in its entirety with the following:

**"Basis: \$9,502.00 per month for July and August 2021
\$9,960.33 per month for each month from September 2021
through June 2022."**
 - b. The Completion Date is changed to June 30, 2022.
3. Paragraph 7 in the section of the Contract titled "SERVICES AND RESPONSIBILITIES" is modified by deleting all references to the "Assistant Superintendent for Personnel & Administration" and replacing those references with the "Deputy Superintendent."
4. The section of the Contract titled "PLAN FOR SECURITY AND PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION" is deleted and replaced in its entirety with the following:

**"PLAN FOR SECURITY AND PROTECTION OF PERSONALLY IDENTIFIABLE
INFORMATION:**

A. "District Data" means all information obtained by Consultant from the District or by Consultant in connection with the Services provided by 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 publicly available by the District, except student and personnel data which will be considered "District Data" regardless of whether or not it is made public.

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

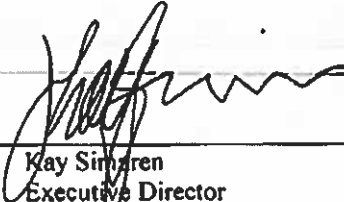
IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the dates written below.

HAUPPAUGE UNION FREE
SCHOOL DISTRICT

SIMAREN CORP
dba WISDOM PROTECTIVE SERVICES

 
By: David Barshay
President, Board of Education

Date: 9/21/2021


By: Kay Simaren
Executive Director

Date: September 17, 2021

**HAUPPAUGE UNION FREE SCHOOL DISTRICT
DATA PRIVACY AGREEMENT**

Between

HAUPPAUGE UNION FREE SCHOOL DISTRICT

and

SIMAREN CORP. d/b/a WISDOM PROTECTIVE SERVICES

This Data Privacy Agreement ("DPA") is by and between the Hauppauge Union Free School District ("the District") and SIMAREN CORP. d/b/a WISDOM PROTECTIVE SERVICES ("the Contractor"), collectively, "the Parties."

ARTICLE I: DEFINITIONS

As used in this DPA, the following terms have the following meanings:

1. **Breach:** The unauthorized acquisition, access, use, or disclosure of Personally Identifiable Information of District Data, or a breach of the Contractor's security that leads to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personally Identifiable Information.
2. **Commercial or Marketing Purpose:** The sale, use or disclosure of Personally Identifiable Information for purposes of receiving remuneration, whether directly or indirectly; the sale, use or disclosure of Personally Identifiable Information for advertising purposes; or the sale, use or disclosure of Personally Identifiable information to develop, improve or market products or services to students.
3. **Disclose:** To permit access to, or the release, transfer, or other communication of personally identifiable information by any means, including oral, written or electronic, whether intended or unintended.
4. **District Data:** All information obtained by the Contractor from the District or by the Contractor in connection with the Services provided by the Contractor pursuant to the Service 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, except Personally Identifiable Information from student and personnel data which will be considered "District Data" regardless of whether or not it is made public.
5. **Education Record:** An education record as defined in the Family Educational Rights and Privacy Act and its implementing regulations, 20 U.S.C. 1232g and 34 C.F.R. Part 99, respectively.
6. **Educational Agency:** As defined in Education Law 2-d, a school district, board of cooperative educational services, School, or the New York State Education Department.
7. **Eligible Student:** A student who is eighteen years of age or older.
8. **Encrypt or Encryption:** As defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Security Rule at 45 CFR § 164.304, means the use of an algorithmic process to transform

principals that is confidential and not subject to Release pursuant to the provisions of Education Law §§ 3012-c and 3012-d.

ARTICLE II: PRIVACY AND SECURITY OF PII

1. Compliance with Law.

~~In order for the Contractor to provide Services to the District pursuant to the Service Agreement; the~~ Contractor may receive District Data regulated by several New York and federal laws and regulations, among them, the Family Educational Rights and Privacy Act ("FERPA") at 20 U.S.C. § 1232g (34 CFR Part 99); Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. §§ 6501-6506 (16 CFR Part 312); Protection of Pupil Rights Amendment ("PPRA") at 20 U.S.C. § 1232h (34 CFR Part 98); the Individuals with Disabilities Education Act ("IDEA") at 20 U.S.C. § 1400 et seq. (34 CFR Part 300); New York Education Law § 2-d; and the Commissioner of Education's Regulations at 8 NYCRR Part 121. The Parties enter this DPA to address the requirements of New York law and to protect District Data. The Contractor agrees to maintain the confidentiality and security of District Data in accordance with applicable New York, federal and local laws, rules and regulations.

2. Authorized Use.

The Contractor has no property or licensing rights or claims of ownership to District Data, and the Contractor must not use District Data for any purpose other than to provide the Services set forth in the Service Agreement. The Contractor agrees that neither the Services provided to the District nor the manner in which the Services are provided by the Contractor will violate applicable New York, federal and local laws, rules and regulations.

If the Contractor has access to District Data that is subject to the Family Educational Rights and Privacy Act ("FERPA"), the Contractor 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 Contractor agrees to abide by the limitations and requirements imposed on school officials.

3. Collection of Data.

The Contractor 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 the Services) that is necessary to fulfill the Contractor's duties pursuant to the Service Agreement.

4. Data Security and Privacy Plan.

The Contractor must adopt and maintain administrative, technical and physical safeguards, measures and controls to manage privacy and security risks and protect District Data in a manner that complies with New York, federal and local laws, rules and regulations and the District's policies. Education Law § 2-d requires that the Contractor provide the District with a Data Privacy and Security Plan that outlines such safeguards, measures and controls including how the Contractor will implement all applicable state, federal and local data security and privacy requirements. The Contractor's Data Security and Privacy Plan is attached to this DPA as Exhibit C and is incorporated into this DPA.

compromises PII, the Contractor must follow the Data Breach reporting requirements set forth herein.

- (e) The Contractor will take full responsibility for the acts and omissions of its officers, employees and Subcontractors.
- (f) The Contractor must not Disclose District Data to any other party (a party other than the Contractor's officers or employees or Subcontractors who does not need access to the District Data to provide the Services pursuant to the Service Agreement) without the prior written consent of the District (if necessary, the District will obtain the required consent(s) from third parties) unless the disclosure is required by statute, court order or subpoena, and the Contractor makes a reasonable effort to notify the District of the court order or subpoena in advance of compliance but in any case, provides notice to the District no later than the time the District Data is disclosed, unless such disclosure to the District is expressly prohibited by the statute, court order or subpoena.
- (g) Except as prohibited by law, the Contractor will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by the Contractor seeking District Data; (ii) consult with the District regarding the Contractor's 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 Contractor's response.
- (h) Upon the District's request, the Contractor agrees that it will promptly make any District Data held by the Contractor available to the District.

8. Training.

The Contractor must ensure that all its officers, employees and Subcontractors who have access to PII have received or will receive training on the federal and state laws governing confidentiality of the data prior to receiving access.

9. Term and Termination.

This DPA will be effective as of the date the Services Agreement is effective and will terminate on the termination of the Services Agreement. However, the obligations of the parties pursuant to this DPA will survive the expiration of the Service Agreement and will continue until the Contractor and Subcontractors no longer retain PII and no longer retain access to PII.

10. Data Return and Destruction of Data.

- (a) Protecting PII from unauthorized access and disclosure is of the utmost importance to the District, and the Contractor agrees that it is prohibited from retaining PII or continued access to PII or any copy, summary or extract of PII, on any storage medium (including, without limitation, in secure data centers and/or cloud-based facilities) whatsoever beyond the period of providing Services to the District, unless such retention is expressly authorized for a prescribed period by the Service Agreement or other written agreement between the Parties, expressly requested by the District for purposes of facilitating the transfer of PII to

description of Contractor's investigation; and the contact information for representatives who can assist the District. Violations of the requirement to notify the District are subject to civil penalty(ies) pursuant to Education Law § 2-d. The Breach of certain PII protected by Education Law §2-d may subject the Contractor to additional penalties.

- b. Notifications required to be made to the District pursuant to this paragraph must be sent to the following people at the following addresses:

Superintendent of Schools
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Email: oharad@hauppauge.k12.ny.us

Dr. Donald B. Murphy
Data Protection Officer
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Email: murphydo@hauppauge.k12.ny.us

15. Cooperation with Investigations.

Contractor agrees that it will cooperate with the District and law enforcement, where necessary, in any investigations into a Breach. Any costs incidental to the required cooperation or participation of the Contractor or its' officers, employees or Subcontractors, as related to such investigations, will be the sole responsibility of the Contractor if the Breach is attributable to Contractor or its Subcontractors.

16. Notification to Individuals.

Where a Breach of PII occurs that is attributable to Contractor, Contractor will pay for or promptly reimburse the District for the full cost of the District's notification to Parents, Eligible Students, teachers, and/or principals, in accordance with Education Law § 2-d and 8 NYCRR Part 121.

ARTICLE III: PARENT AND ELIGIBLE STUDENT PROVISIONS

1. Parent and Eligible Student Access.

Education Law § 2-d and FERPA provide Parents and Eligible Students the right to inspect and review their child's or the Eligible Student's Student Data stored or maintained by the District. To the extent Student Data is held by the Contractor pursuant to the Service Agreement, the Contractor must respond within 20 calendar days to the District's requests for access to Student Data so the District can facilitate review by a Parent or Eligible Student, and facilitate corrections, as necessary. If a Parent or Eligible Student contacts Contractor directly to review any of the Student Data held by the Contractor pursuant to the Service Agreement, the Contractor must promptly notify the District and refer the Parent or Eligible Student to the District.

EXHIBIT A - Education Law § 2-d Parents' Bill of Rights for Data Privacy and Security

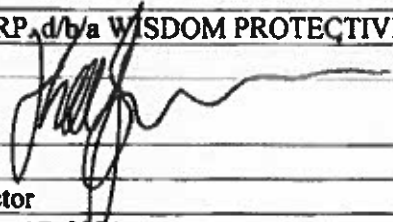
Education Law § 2-d Parents' Bill of Rights for Data Privacy and Security

HAUPPAUGE UNION FREE SCHOOL DISTRICT PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY Summary of Rights and Information for Parents and Students

The Hauppauge Union Free School District is committed to ensuring the privacy of student personally identifiable information and recognizes that parents (including legal guardians or persons in parental relationships) and eligible students (students 18 years of age and older) are entitled to certain rights with regard to a student's personally identifiable information. 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 ("PII") cannot be sold or released for any commercial purposes. PII, as defined by Education Law § 2-d and the Family Educational Rights and Privacy Act ("FERPA"), includes direct identifiers such as a student's name or identification number, parent's name, or address; and indirect identifiers such as a student's date of birth, which when linked to or combined with other information can be used to distinguish or trace a student's identity. Please see FERPA's regulations at 34 CFR § 99.3 for a more complete definition.
2. Parents and/or eligible students have the right to inspect and review the complete contents of the student's education records stored or maintained by the District. This right may not apply to parents of an eligible student.
3. State and federal laws such as New York Education Law § 2-d, the Commissioner of Education's Regulations at 8 NYCRR Part 121, FERPA, the Children's Online Privacy Protection Act, the Protection of Pupil Rights Amendment, and the Individuals with Disabilities Education Act protect the confidentiality of a student's PII.
4. 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.
5. A complete list of all student data elements collected by the State is available for public review at www.nysed.gov/data-privacy-security/student-data-inventory and by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.
6. Parents have the right to have complaints about possible breaches and unauthorized disclosures of PII addressed.

9. District workers who handle PII will receive annual training on applicable federal and State laws, regulations, policies and safeguards which will be in alignment with industry standards and best practices to protect PII.

SIMAREN CORP, d/b/a WISDOM PROTECTIVE SERVICES
By: 
Kay Simaren
Executive Director
Date: September 17, 2021

Data Transition and Secure Destruction	<p>Upon expiration or termination of the Service Agreement, the Contractor will, as directed by the District in writing:</p> <ul style="list-style-type: none"> • Securely transfer data to District, or a successor contractor at the District's option and written discretion, in a format agreed to by the parties. • Securely delete and destroy data by taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means.
Challenges to Data Accuracy	<p>Parents, students, teachers or principals who seek to challenge the accuracy of PII will do so by contacting the District. If a correction to data is deemed necessary, the District will notify the Contractor. The Contractor agrees to facilitate such corrections within 21 calendar days of receiving the District's written request.</p>
Secure Storage and Data Security	<p>The Contractor will store and process District Data in compliance with § 2-d(5) and applicable regulations of the Commissioner of Education, 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 Contractor 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 Service Agreement. The Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.</p> <p>Please describe where PII will be stored and the security protections taken to ensure PII will be protected and data security and privacy risks mitigated in a manner that does not compromise the security of the data:</p> <p>(a) Storage of Electronic Data (check all that apply):</p> <p>Using a cloud or infrastructure owned and hosted by a third party.</p> <p>Using Contractor owned and hosted solution</p> <p>X Other: The Contractor represents and warrant that it will not store PII obtain from Student Data or Teacher or Principal APPR Data from the District electronically.</p> <p>(b) Storage of Non-Electronic Data: The Contractor represents and warrants that it will not store PII obtain from Student Data or Teacher or Principal APPR Data in any form.</p>

EXHIBIT C - CONTRACTOR'S DATA PRIVACY AND SECURITY PLAN

The Hauppauge Union Free School District is required to ensure that all contracts with a third-party contractor include a Data Security and Privacy Plan pursuant to Education Law § 2-d and Section 121.6 of the Commissioner's Regulations. The Contractor must complete the following or provide a plan that materially addresses its requirements, including alignment with the NIST Cybersecurity Framework, which is the standard for educational agency data privacy and security policies in New York State. The terms of the plan cannot conflict with any other terms of or Exhibits to the Data Privacy Agreement to which this Exhibit C is attached. **While this plan is not required to be posted to the District's website, contractors should nevertheless ensure that they do not include information that could compromise the security of their data and data systems. DO NOT LIMIT RESPONSES TO THE SPACES PROVIDED.**

1	Outline how you will implement applicable data security and privacy contract requirements over the life of the Contract	Wisdom's Protective's Data Privacy Policy is attached hereto and incorporate herein.
2	Specify the administrative, operational and technical safeguards and practices that you have in place to protect PII.	<p>All Wisdom Protective employees are bound by confidentiality agreements which prohibit unauthorized use or disclosure of client information.</p> <p>Collection of PII under the Service Agreement will be limited and, will comply with data privacy laws applicable to the District.</p> <p>In the event Wisdom Protective collects PII while performing services, the use and disclosure of sensitive information is restricted to a handful of personnel, (including as necessary the 24/7 command center) based on their job responsibilities (such employees, "access employees") and will never be stored electronically on systems owned or maintained by Wisdom</p> <p>Nevertheless, all Wisdom Protective electronic systems are password protected the access to which is strictly monitored by our Executive Director. All documents are housed at our headquarters, which has layered levels of security (i.e., access to sensitive information is kept in a restricted area within the headquarters.)</p>
3	Specify how your officers, employees and Subcontractors who have access to PII pursuant to the Service Agreement will receive training on the federal and State laws that govern the confidentiality of PII.	Confidentiality and discretion are ingrained in Wisdom Protective's business processes. Wisdom Protective's "access employees" are in regular contact with our Executive Director and are trained (and do not) release information without his express authorization.



Wisdom Protective Services Data Privacy Policy

I. Data Protection Principles

Simaren Corp dba Wisdom Protective Services ("Wisdom") is committed to maintaining and processing data in accordance with applicable privacy laws and all contractual confidentiality and privacy obligations. In furtherance thereof, Wisdom shall be guided by the following data protection principles:

1. **Fair, Lawful & Transparent:** Wisdom shall collect and process all personally identifiable information ("PII") fairly, lawfully, and transparently.
2. **Collection Limited:** Wisdom shall collect PII only for specified and legitimate purposes and shall not further use (process) the PII in a manner that is incompatible with those purposes, except as required or permitted by law.
3. **Accuracy (Data Integrity):** PII maintained by Wisdom shall be accurate and, where necessary, kept up to date.
4. **Retention:** Wisdom shall retain PII for no longer than is necessary for the purposes for which it was collected or processed, except as may be required or permitted by law.
5. **Safeguards (Confidentiality & Security):** Wisdom shall use appropriate safeguards, including physical, contractual, technical, and organizational measures, to protect against unauthorized or unlawful access to, disclosure of, or processing of PII.

II. Collection of PII

1. Methods of Collection

Wisdom collects PII directly from the person (e.g., in written employment applications, and investigative reports), over the phone, electronically (e.g., in emails, texts and faxes) and over monitoring devices (e.g., in security cameras or via tracking programs in our company cars). Wisdom's timekeeping application (ADP) collects geolocation information from devices attempting to clock in or clock out. Wisdom does not collect IP addresses or cookies from individuals who interact with our website.

2. Categories of PII Collected & Purpose of Collection

a. Client (and Prospective Client) Relationship Information

We collect and maintain PII such as name, title, and contact information (email, phone) for our clients so that we can contact them regarding matters related to the services we provide and ancillary matters (including soliciting their willing to serve as references for Wisdom). We contact prospective clients regarding bids, requests for proposals and to pitch our services.

b. Information Obtained While Performing Services

We collect PII from our clients and others (e.g., witnesses) in the course of providing our services. PII collected may include images on security cameras and PII collected in connection with shift and security incident reports such as name, contact information (e.g., phone, email) and physical identifiers (age, sex, apparent race/ethnicity) of individuals encountered on our shifts or involved in any security incident. Depending on the incident, other identifying information might be collected (e.g., if there is an accident involving a vehicle, we would collect driver's license and insurance coverage information).

For our clients that are schools, generally we request that there be no disclosure of any information that would be considered a "student record" or "teacher or principal annual professional performance review" within the meaning of the Individuals with Disabilities in Education Act or the New York State Education Law. If a client wishes to disclose such information because of a particular security concern, the client should be advised to disclose the information verbally to Mr. Kay only who will ensure that dissemination of the information is limited to only those who need the information to support the client.

c. HR Information (including the Recruiting Process)

We collect and maintain PII of our employees (and a subset of this information for recruits) to assist us in evaluating the qualifications of our workforce, meeting contractual and legal requirements related to employees and the employment relationship (generally) and security professionals (specifically) and administering employment-related programs. The PII collected may include: name, contact information (address, email, phone, emergency contact), family status information, demographic information (age, race, ethnicity), information about education and job qualification (diplomas, certificates, classes taken, license-related information (driving history, arrests that occur while on our security license, fingerprints), background check information, pay-related information (social security number, dependents, filing status, garnishments, support orders), banking information (account #s for direct deposit), responses to various requests for employment information (including from social service agencies), images (e.g., on security cameras), geolocation (e.g., while driving our vehicles or while clocking in), and medical information (e.g., doctor's notes, COVID-19 test results).

III. Rules for Processing

a. Accuracy (Data Integrity)

We take reasonable steps to ensure PII collected is accurate and, to the extent necessary for the purpose collected, kept up to date). For example, we regularly monitor and confirm the licensing status of our security officers and fire safety directors. With respect to HR information, employees have access to certain employment and payroll records we maintain in ADP and are advised to update the information if it is inaccurate.

b. Retention

We have adopted a records retention program and regularly purge records to ensure that PII is maintained no longer than necessary for the purpose it is collected.

c. Safeguards

We have in place appropriate safeguards (e.g., physical, organizational, and technical) to minimize the risk of unauthorized or unlawful access to, disclosure of, or processing of PII. For example, access to each Wisdom location where PII is stored is limited; physical and electronic access to PII is restricted to a handful of individuals with access management solely controlled and strictly monitored by our Executive Director; software used to access PII is kept up to date; when records containing PII are destroyed or deleted it is done in a manner that the PII is unrecoverable (e.g., paper is shredded); service providers with whom we share PII (ADP, accountants, lawyers) are contractually or legally bound to maintain adequate safeguards to protect PII shared with them; PII

IV. Disclosure of PII

Except as permitted or required by law, we do not disclose the PII to third parties in the ordinary course of business.

PII from Clients or Obtained While Performing Services: We do not use or disclose PII obtained from our clients or obtained by us while performing services without client consent except (i) to the extent required by law, or (ii) in the context of obtaining confidential privileged legal advice.

PII (Other Sources): We may use or disclose PII that we collect in our business (other than PII obtained from clients or obtained while performing services) to the extent permitted or required by applicable law. For example,

Service Providers: We may disclose HR-related PII to our service providers such as to ADP (our HR and payroll processing system).

Advisors and Agents: We may disclose PII to our advisors (such as our lawyers and accountants) or agents acting on our behalf.

Affiliates: We may disclose PII to our affiliated companies (e.g., another Simaren corporation entity responsible management services).

Government Entities and Law Enforcement: We may disclose PII to government entities (e.g., social service investigators) and law enforcement.

With Consent: We may disclose PII with the consent of the subject of the PII (e.g., in connection with a reference request).

V. Data Breach

In the event of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, PII, Wisdom shall promptly assess the risk to the individuals whose PII is impacted and comply with all contractual and legal requirements regarding such breach.

HAUPPAUGE UNION FREE SCHOOL DISTRICT
CONSULTANT SERVICES CONTRACT

THIS AGREEMENT is entered into this 28th day of July, 2020 by and between the Hauppauge Union Free School District (hereinafter "District"), and SIMAREN Corp. d/b/a Wisdom Protective Services (hereinafter "Consultant").

TERM:

This AGREEMENT is for services provided from July 1, 2020 to June 30, 2021, unless terminated as hereinafter specified in this AGREEMENT. Consultant acknowledges that District is under no obligation to renew this AGREEMENT upon its expiration.

CONDITIONS:

In performing services specified in this AGREEMENT, it is understood that:

1. Consultant is retained by District only for the purposes and to the extent set forth in this AGREEMENT. Consultant's relation to District is solely that of an independent contractor during the period of Consultant's retention and delivery of services hereunder.

Neither Consultant nor any of its employees, shareholders, partners, members, officers, directors, agents, or assigns will be eligible for employee benefits or contributions thereto from 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 Consultant, Consultant alone is responsible for their work, personal conduct, direction, compensation, and for payment of all employment, income and other taxes in relation thereto.

2. To the fullest extent permitted by law, Consultant indemnifies and will defend (with counsel selected by District) and hold harmless 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 Consultant's services hereunder, or the action of, or the failure to act by Consultant, Consultant's representatives or employees, or anyone for whose acts 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 Consultant pursuant to the provisions of this Paragraph, District will promptly notify Consultant of the legal proceeding, claim or demand, and give Consultant an opportunity to defend and settle same without any cost to District, and will extend reasonable cooperation to Consultant in connection with the defense, which will be at the expense of Consultant. In the event that Consultant fails to defend the same within 30 calendar days of receipt of the notice, District will be entitled to assume the defense thereof, and Consultant will be liable to repay 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 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 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 will survive the expiration or sooner termination of this AGREEMENT.

4. District reserves the right to reject any of the Consultant's staff, which District, at its sole but reasonable discretion, may deem unqualified.
5. Safeguarding Information: Neither Consultant nor 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.

SERVICES AND RESPONSIBILITIES:

1. During the term of this AGREEMENT. Consultant will provide District with the services set forth in the attached Schedule "A" and the Director of Security RFP#2019C-005-0726.
2. Consultant will provide conscientious, competent and diligent services throughout the entire term of this AGREEMENT.
3. Consultant will provide on-site services within District. District will provide a District radio and a District vehicle for Consultant while providing services on-site. Consultant will be responsible for provision of all other equipment at his own expense. Consultant will pay all others expenses incurred in connection with the performance of Consultant's duties hereunder including, but not limited to, automobile and/or travel expenses.
4. Consultant will perform such services in accordance with established and acceptable requirements of the State Education Department.
5. 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 District. Consultant must provide District with a copy of any reports, tests, evaluations or observations that are prepared in connection with the services provided by Consultant pursuant to this AGREEMENT.
6. Review of Records: District will have the right to examine any or all records or accounts maintained by Consultant in connection with this AGREEMENT.
7. District's Policies/Authority: Consultant certifies that it has reviewed and is familiar with the policies, rules and regulations of District including, but not limited to, District's anti-harassment and anti-discrimination policies and regulations and District's Code of Conduct (collectively, "the Policies"). 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") to review and become familiar with the Policies. Copies of the Policies are available at <http://www.hauppauge.k12.ny.us/domain/602>. Consultant agrees that it will comply with the Policies and will cause Consultant's Service Providers to do the same.

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 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). Consultant confirms that it has notified Consultant's Service Providers of this requirement.

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

8. Signing of Acknowledgement: 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 Consultant and each principal employee of Consultant. A schedule of such persons is attached as Schedule "B."

REPRESENTATIONS:

Consultant represents that it will only assign professionals of good character, who are in good professional standing and who possess current and valid licenses, if necessary to perform the services under this AGREEMENT. Consultant represents that any professional assigned to District will not be currently charged and will not have been charged in the past with any criminal or professional misconduct or incompetence. Consultant must provide copies of licenses of all professionals servicing District upon the execution of this AGREEMENT.

In the event that the license of Consultant or any agent or employee thereof is revoked, terminated, suspended, or otherwise impaired, or if any litigation becomes pending against Consultant, or in the event that Consultant receives notice of such impending action, Consultant will immediately notify District in writing.

COMPENSATION:

District agrees to pay Consultant in accordance with Schedule "A."

INSURANCE:

Consultant will obtain and keep in full force and effect during the term of this AGREEMENT, at 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).

The policy must include coverage for assault and battery and for all security-related services rendered to District by Consultant.

\$1,000,000 Personal and Advertising Injury Limit, including coverage for defamation, false arrest, detention and imprisonment.

b. **Automobile Liability**

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

c. **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

d. **Professional Errors and Omissions Insurance**

\$2,000,000 per occurrence/ \$2,000,000 aggregate for the professional acts of Consultant performed under this AGREEMENT for 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.

e. **Excess Insurance**

\$5,000,000 each occurrence and aggregate. Excess coverage must be on a follow-form basis over the required general liability coverage.

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, Consultant hereby agrees to effectuate the naming of District as an additional insured on Consultant's insurance policies, with the exception of workers' compensation, N.Y. State disability and professional liability. Each policy naming 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-";
- state that Consultant's coverage is primary and non-contributory coverage for District, its Board, employees and volunteers.

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 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 Consultant (e.g., physical therapy, psychological services) that are covered by the commercial general liability policy and the umbrella policy. At District's request, Consultant will provide copies of the declarations pages of the liability and umbrella policies with a list of endorsements and forms. If so requested, Consultant will provide a copy of the policy endorsements and forms.

Consultant hereby indemnifies and holds harmless District for any applicable deductibles and self-insured retentions, all of which are the sole responsibility of 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.

Consultant acknowledges that failure to obtain the foregoing insurance on behalf of District constitutes a material breach of contract. Consultant must provide District with proof satisfactory to District that the above requirements have been met, prior to the commencement of work or use of District facilities. The failure of 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 District. Upon request, Consultant will provide District with a copy of Consultant's applicable insurance policies including any endorsements, modifications, or exclusions thereto.

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

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 District.

DEFAULT AND TERMINATION:

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

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

(2) Immediately upon Consultant's breach of Consultant's obligations to provide the required insurance coverage;

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

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

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

B. This AGREEMENT is automatically terminated upon 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 Consultant which is not dismissed within 60 calendar days of filing. Upon termination of this AGREEMENT pursuant to this subparagraph (B), 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, Consultant is entitled to receive all sums due, accrued and unpaid as of the date of termination.

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

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

SUCCESSORS AND ASSIGNS:

It is expressly understood that this AGREEMENT will not be assigned without prior written consent of the other party.

ENTIRE AGREEMENT:

This AGREEMENT is the complete and exclusive statement of the AGREEMENT between the parties, and supersedes all prior contemporaneous proposals, oral or written, understandings, representations, conditions or covenants between the parties relating to the subject matter of the AGREEMENT.

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.

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 Consultant:

Wisdom Protective Services
837 Old Country Road
Westbury, New York 11590

To 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: Lindsay T. Crocker, 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.

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.

NO ASSIGNMENT:

In accordance with the provisions of General Municipal Law § 109, Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this AGREEMENT, or of Consultant's rights, title, or interest in this AGREEMENT, or Consultant's power to execute this AGREEMENT to any other person or corporation without the previous consent in writing from District.

THIRD-PARTY BENEFICIARIES:

There are no third-party beneficiaries of or in this AGREEMENT, other than NYSIR.

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.

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 Consultant from District or by Consultant in connection with the services provided by 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 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 who does not have personal knowledge of the relevant circumstances to identify the individual with reasonable certainty; and (v) any information requested by a person who District or Consultant reasonably believes knows the identity of the person to whom a record relates.

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

E. Consultant represents and warrants that it will only collect data from District, or District employees or other End Users (the term "End Users" means the individuals authorized by District to access and use services provided by Consultant pursuant to this AGREEMENT) that is necessary to fulfill 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 District and that Consultant has a limited, non-exclusive license to use District Data solely to perform the services pursuant to this AGREEMENT.

G. 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 Consultant's obligations pursuant to this Agreement. "Commercial or marketing purpose" means the sale of District Data for the purpose of receiving remuneration, whether directly or indirectly, or the use of District Data for advertising purposes or to develop, improve or market products or services to students.

H. Consultant agrees that, upon receipt of District Data, it will: (i) limit 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 District's prior written consent (if necessary, 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 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 Consultant has access to District Data that is subject to the Family Educational Rights and Privacy Act ("FERPA"), 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 Consultant agrees to abide by the limitations and requirements imposed on school officials.

J. Consultant represents and warrants that it will comply with District's Parents' Bill of Rights, as supplemented, to include information about this AGREEMENT, a copy of which is annexed hereto as Schedule "C" and is signed by the Parties.

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

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

N. A breach is any unauthorized access, use or disclosure of District Data. Consultant agrees to notify District of any breach. This notification will be made in the most expedient way possible and without delay. Consultant must also notify District in writing of the breach. This written notification must be sent by Consultant within one calendar day of the breach and must be sent to District by email to District's Data Protection Officer and either personally delivered or sent by nationally recognized overnight carrier to District. In the event of a breach attributed to Consultant or Consultant's assignees or subcontractors, Consultant must reimburse District for all District's costs associated with 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, Consultant indemnifies and will defend (with counsel selected by District) and hold harmless 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 District's notification obligations set forth above in Subparagraph N.

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

FINGERPRINTING:

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. Written proof of clearance of each person (in form and substance satisfactory to District) will be provided to District prior to the provision of services. Consultant will inform District, in writing, within one business day of Consultant's receipt of a notice of subsequent arrest (or any other notice related to fingerprinting) for any person providing services. If any of Consultant's employees who are assigned to provide services do not have the appropriate fingerprinting clearance, Consultant must give District the information necessary to process and obtain fingerprint clearance and reimburse District for the cost to District of obtaining the clearance. District will deduct the cost of the fingerprinting clearance from the next payment due to Consultant. If any person providing services leaves the employment of Consultant for any reason, Consultant must notify District, in writing, within one calendar week of the end of the person's employment. If District has not received sufficient proof of fingerprinting clearance for any person providing services, District will deduct the cost of the services provided by the person from the next payment due to 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.

NO END USER AGREEMENTS:

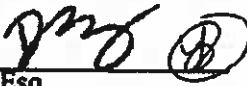
In the event that Consultant enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the AGREEMENT will apply.

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.

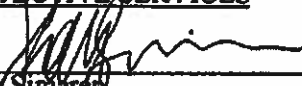
IN WITNESS WHEREOF, the parties hereto have duly executed this AGREEMENT as of the latter date that appears below

HAUPPAUGE UFSD



David Barshay, Esq.
President, Board of Education
Hauppauge UFSD
495 Hoffman Lane
Hauppauge, N.Y. 11788

SIMAREN CORP. d/b/a/ WISDOM PROTECTIVE SERVICES



Kay Simaren
Executive Director
Wisdom Protective Services
837 Old Country Road
Westbury, N.Y. 11590

SCHEDULE A

Wisdom Protective Services
837 Old Country Road
Westbury, New York 11590

Basis: \$9,337.92 per month for July and August
\$9,502.00 per month for the each month from
September through June

Commencement Date: July 1, 2020

Completion Date: June 30, 2021

Payment Schedule

District will make payment(s) within sixty (60) days of its receipt, review and approval of a proper invoice (form and substance satisfactory to District) for Consultant's services. The invoice must include, at a minimum, total hours, dates that the invoice covers, and total amount due for the period specified.

Description of services/Deliverables/Projects to be Performed

During the term of this AGREEMENT, Consultant will devote the necessary time, attention and energies to provide Security Director services to District. and will not be engaged in any other work or employment incompatible with the full and proper conduct of the services performed for District. Consultant will provide services to District on each day that school is open for students and an additional 40 days to be agreed to by the Superintendent of Schools or his designee and Consultant.

SCHEDULE B

**ACKNOWLEDGMENT WITH REGARD TO THE NEW YORK STATE EDUCATION DEPARTMENT
WAIVER**

Complete one of the following paragraphs:

1. I, Kay Simaren 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

7/23/2020

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

SCHEDULE C

**AGREEMENT BETWEEN SIMAREN CORP. D/B/A/ WISDOM PROTECTIVE SERVICES ("Consultant") and
District**

TERM: July 1, 2020 through June 30, 2021

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, 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 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 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 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 Consultant from District or by 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 District, with the exception of Personally Identifiable Information from student and personnel data.

- (1) **Use of District Data by Consultant.** District Data received by Consultant will be used only to perform Consultant's obligations pursuant to the AGREEMENT and for no other purpose.
- (2) **Storage and Security Protections.** Consultant will store and process District Data in compliance with Education Law §2-d(5) and application regulations of the Commissioner of Education 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. 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 Consultant to protect District Data:

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

- (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 Consultant through the use of encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).**

- (3) **Subcontractors.** Please select one by marking with an X:

☐ Consultant will utilize subcontractors.

☒ Consultant will not utilize subcontractors.


- (4) **Sharing Information with Other Persons and Entities.** Consultant will only share District Data with entities or persons authorized by the AGREEMENT. To the extent that District Data will be shared by Consultant with other authorized entities or persons not employed by Consultant, ~~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 Schedule "C."

- (5) **Destruction/Return of Data.** Upon the termination of the AGREEMENT for any reason, Consultant will, as directed by 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 Consultant as soon as reasonably possible. 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, Consultant will provide a certificate of destruction (form and substance satisfactory to District) to District.

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

**HAUPPAUGE UNION FREE
SCHOOL DISTRICT**

By:


David M. Barshay
President, Board of Education

Date:

7/28/2020

**SIMAREN CORP. D/B/A WISDOM
PROTECTIVE SERVICES**

By:


Kay Simaren
Executive Director

Date:

7/23/2020



HAUPPAUGE PUBLIC SCHOOLS

495 Hoffman Lane
P.O. Box 6006
Hauppauge, New York 11788

CATHERINE FREEMAN

Interim Assistant Superintendent for Business & Operations

TO: Board of Education

FROM: Catherine Freeman

RE: SIMAREN Corp. dba Wisdom Protective Services

DATE: July 20, 2023

The district is extending the Armed Guard contract with Wisdom Protective Services for the 2023/2024 school year.

**SECOND AMENDMENT TO AGREEMENTS
BETWEEN
HAUPPAUGE UNION FREE SCHOOL DISTRICT
AND
SIMAREN CORP. DBA WISDOM PROTECTIVE SERVICES**

This Amendment ("the Amendment 2") to (1) the Agreement between Hauppauge Union Free School District and the Simaren Corp. d/b/a Wisdom Protective Services for services during the 2021-2022 school year ("the Service Agreement") and (2) the associated Data Privacy Agreement ("DPA"), is made and entered into as of July 1, 2023. The Hauppauge Union Free School District ("the District") and the Simaren Corp. d/b/a Wisdom Protective Services ("Wisdom") ("the Contractor") are collectively referred to herein as the "Parties" and individually as a "Party."

WHEREAS, the Parties entered into the Service Agreement and the DPA to which this Amendment is attached (collectively "the Agreements"); and

WHEREAS, the Parties extended the term of the Agreements for the 2022-2023 school pursuant to an Amendment to the Contract made and entered into as of July 1, 2022 ("Amendment 1"); and

WHEREAS, the Parties wish to further amend the Agreements as hereinafter provided, and hereby agree that to the extent the provisions of this Amendment are inconsistent with the attached Agreements, the provisions of this Amendment will control.

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 Amendment as if fully set forth therein and hereby agree as follows:

1. The term of the Service Agreement is extended through June 30, 2024, unless the Service Agreement is terminated earlier pursuant to the terms of the Service Agreement.
2. Schedule A to the Service Agreement is replaced with the revised Schedule A annexed to this Amendment.
3. Schedule B to the Service Agreement is replaced with the revised Schedule B annexed to this Amendment.
4. Exhibit B to the DPA is replaced with the revised Exhibit B annexed to this Amendment as Exhibit B. The Contractor must sign the revised Exhibit B.
5. The Contractor hereby represents and warrants that there are no changes to the Contractor's Data Security and Privacy Plan attached to the DPA as Exhibit C.
6. This Amendment may be in executed in one or more counterparts, all of which will be considered one and the same agreement. The Amendment may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

7. Other than as herein specifically set forth, the Agreements remain unmodified and in full force and effect.

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

**HAUPPAUGE UNION FREE
SCHOOL DISTRICT**

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

Date: _____

**SIMAREN CORP D/B/A WISDOM
PROTECTIVE SERVICES**

By: _____
Kay Simaren
Executive Director

Date: 07/18/2023

SCHEDULE A

SERVICES

Armed Guards: Wisdom shall provide onsite Personnel who are licensed, trained, armed professional security guards for security for the District's five school buildings in Hauppauge, New York on regular school days, generally Monday through Friday, excluding school holidays and vacations (One guard per building) as follows:

- Hauppauge High School, 6:30 AM to 2:30 PM
- Hauppauge Middle School, 8:00 AM to 4:00 PM
- Pines Elementary School, 8:00 AM to 4:00 PM
- Bretton Woods Elementary School, 8:00 AM to 4:00 PM
- Forest Brook Elementary School, 8:00 AM to 4:00 PM

Except as necessary to perform the Services, the Wisdom personnel shall at all times have their weapons on their person and concealed.

Modification (Hours/# Personnel): The District's Director of Security may adjust the number of armed guards and/or hours to be provided under this Agreement to reflect changes in the need for security coverage (e.g., the need for additional coverage for special events or due to an increased threat level). Changes in coverage level should be made in writing and communicated by email to either Wisdom's Executive Director (Kay Simarén: mrkay@wisdomprotective.com), the District's assigned Wisdom Operations Manager (Rich Lawrence: rlawrence@wisdomprotective.com) or in the event of a heightened threat level requiring urgent attention, the Command Center (dispatch@wisdomprotective.com).

Security Readiness: The Personnel shall be responsible for reviewing and familiarizing themselves with the emergency plans and procedures for their assigned building and all other buildings in the District. Wisdom will assist the District in complying with the Safe School Act and Project Save, including without limitation, by taking such measures and making such recommendations that in its professional determination are necessary for the District to comply.

Incident/ Hazards: If there is a security incident such as an intrusion or alarm, the onsite Personnel assigned to the building shall investigate and call 911 for emergency response as necessary. Any security incidents or noted hazards shall be reported to the District by Wisdom on forms provided by the District for this purpose.

Interaction with District Personnel: The primary District contact(s) for each site shall be either the Director of Facilities and/or the Building's principal each of which shall communicate to Personnel requests and instructions. However, responsibility for prioritizing and coordinating duties to satisfy District requests lies with Wisdom.

District Equipment: The District will provide the onsite Personnel with a key, cell phone and/or wireless two-way communication device to facilitate the provision of the Services at a particular building. The onsite Personnel shall carry these items on their person at all times while onsite and return them to the building Principal or other designated building administrator at the end of each school day.

Standards Specific to Described Services:

- **Law Enforcement Experience:** The Personnel shall be active, retired or currently employed as local, state or federal law enforcement officers. Wisdom will furnish the District a list of current or prior law enforcement work experience upon request for each guard.
 - **Training:** The Personnel shall have proof of having taken certified weapons trainings course as well as supplemental training including, but not limited to, training on suspicious packages, response to active shooter incidents and enhanced terrorism awareness and response
 - **Fitness for Duty:** The Personnel must possess the physical fitness to perform the essential functions of the job (with reasonable accommodation if necessary). If there is any doubt as to the capabilities, the District shall engage with Wisdom to assess and if necessary mitigate the situation. Personnel shall not report to the District if they they are in any way mentally or physically impaired, such as, by drug or alcohol use, or illness.
 - **Appearance:** The Personnel must present as well-kempt with proper hygiene.
 - **Conduct:** The Personnel are expected to conduct themselves in a helpful and courteous manner consistent with professional industry standards.
-

SCHEDULE B

FEES & EXPENSES

The Fee for the Services described in Schedule A shall be the number of hours worked multiplied by the applicable hourly rate for the day the Services. The applicable hourly rate at the beginning of the Term shall be as set forth below:

Regular Rate (Weekdays/Weekends straight time hours)	\$39.62 per hour
Overtime Rate and Holiday Rate	\$59.43 per hour

Overtime rate applies when guard's hours exceed 40 hours in any workweek or more than 8 hours in any day. Holiday hours apply to hours worked on any school holiday.

Whenever an updated Prevailing Wage Rate and/or Supplement Benefit is published by the New York State Department of Labor and becomes effective, the applicable hourly rates shall be updated to reflect the total percentage change, increase or decrease of the Prevailing Wage Rate plus the Supplemental Benefit rate.

For example, if the straight time Prevailing Wage Rate plus Supplemental Benefit rate equals \$20.00 and the new Prevailing Wage Rate plus Supplemental Benefit increases to \$20.60, a 3% increase (\$.60/\$20.00). The calculation of the applicable hourly rate shall be determined by multiplying the then applicable hourly rate under this Agreement by 1.03% ($\$35.98 * 1.03 = \37.06).

EXHIBIT B

EXHIBIT B: BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

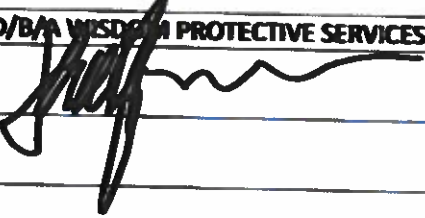
SUPPLEMENTAL INFORMATION FOR CONTRACTS THAT UTILIZE PERSONALLY IDENTIFIABLE INFORMATION

Pursuant to Education Law § 2-d and 8 NYCRR § 121.3, the District is required to post information to its website about its contracts with third-party contractors ("Service Agreements") that will receive Personally Identifiable Information ("PII") from Student Data or Teacher or Principal APPR Data.

SIMAREN CORP D/B/A WISDOM PROTECTIVE SERVICES	
Term of Service Agreement	Agreement Start Date: July 1, 2021 Agreement End Date: June 30, 2024
Description of the purpose(s) for which Contractor will receive/access/use PII	PII received by the Contractor will be received, accessed and used only to perform the Contractor's Services pursuant to the Service Agreement with the District. List Purposes: School security.
Type of PII that Contractor will receive/access	Check all that apply: <input checked="" type="checkbox"/> Student PII <input type="checkbox"/> Teacher or Principal APPR Data
Subcontractor Written Agreement Requirement	The Contractor will only share PII with entities or persons authorized by the Service Agreement. The Contractor will not utilize Subcontractors without written contracts that require the Subcontractors to adhere to, at a minimum, materially similar data protection obligations imposed on the contractor by state and federal laws and regulations, and the Service Agreement. Check applicable option. <input checked="" type="checkbox"/> Contractor will not utilize Subcontractors. <input type="checkbox"/> Contractor will utilize Subcontractors.
Data Transition and Secure Destruction	Upon expiration or termination of the Service Agreement, the Contractor will, as directed by the District in writing: • Securely transfer data to District, or a successor contractor at the District's option and written discretion, in a format agreed to by the parties.

	<ul style="list-style-type: none"> Securely delete and destroy data by taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means.
Challenges to Data Accuracy	<p>Parents, students, teachers or principals who seek to challenge the accuracy of PII will do so by contacting the District. If a correction to data is deemed necessary, the District will notify the Contractor. The Contractor agrees to facilitate such corrections within 21 calendar days of receiving the District's written request.</p>
Secure Storage and Data Security	<p>The Contractor will store and process PII from Student Data or Teacher or Principal APPR Data in compliance with § 2-d(5) and applicable regulations of the Commissioner of Education, 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 Service Agreement. The Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.</p> <p>Please describe where PII will be stored and the security protections taken to ensure PII will be protected and data security and privacy risks mitigated in a manner that does not compromise the security of the data:</p> <p>(a) Storage of Electronic Data (check all that apply):</p> <p><input type="checkbox"/> Using a cloud or infrastructure owned and hosted by a third party.</p> <p><input type="checkbox"/> Using Contractor owned and hosted solution</p> <p><input checked="" type="checkbox"/> Other: The Contractor represents and warrant that it will not store PII obtained from Student Data or Teacher or Principal APPR Data from the District electronically.</p> <p>(b) Storage of Non-Electronic Data: The Contractor represents that it will not store PII obtained from Student Data or Teacher or Principal APPR Data in any form.</p> <p>(c) Security Protections: Neither the District nor Contractor will communicate any PII from Student Data or Teacher or Principal APPR Data electronically to the other party, unless the communication occurs on the District's computer network or another secure portal that the District owns and maintains. The District is advised that it may communicate verbally to the Contractor's Executive Director who will ensure that dissemination of that information will be made</p>

	verbally only to those who need such information to perform the Services or through the District's computer network or another secure portal that the District owns and maintains.
Encryption	If, at any time, PII from Student Data or Teacher or Principal APPR Data is received, the PII will be encrypted while in motion and at rest.

SIMAREN CORP D/B/A WISDOM PROTECTIVE SERVICES	
By: (Signature)	
(Printed Name) Kay Simaren	
(Title) Executive Director	
Date: 07/18/2023	

**AMENDMENT TO AGREEMENTS
BETWEEN
HAUPPAUGE UNION FREE SCHOOL DISTRICT
AND
SIMAREN CORP. DBA WISDOM PROTECTIVE SERVICES**

This Amendment ("the Amendment") to (1) the Agreement between Hauppauge Union Free School District and the Simaren Corp. d/b/a Wisdom Protective Services for services during the 2021-2022 school year ("the Service Agreement") and (2) the associated Data Privacy Agreement ("DPA"), is made and entered into as of July 1, 2022. The Hauppauge Union Free School District ("the District") and the Simaren Corp. d/b/a Wisdom Protective Services ("Wisdom") ("the Contractor") are collectively referred to herein as the "Parties" and individually as a "Party."

WHEREAS, the Parties entered into the Service Agreement and the DPA to which this Amendment is attached (collectively "the Agreements"); and

WHEREAS, the Parties wish to amend the Agreements as hereinafter provided, and hereby agree that to the extent the provisions of this Amendment are inconsistent with the attached Agreements, the provisions of this Amendment will control.

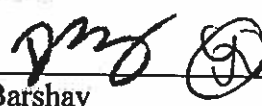
NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties incorporate the above statements into the body of this Amendment as if fully set forth therein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

1. The term of the Service Agreement is extended through June 30, 2023, unless the Service Agreement is terminated earlier pursuant to the terms of the Service Agreement.
2. Schedule A to the Service Agreement is replaced with the revised Schedule A annexed to this Amendment.
3. Schedule B to the Service Agreement is replaced with the revised Schedule B annexed to this Amendment.
4. Exhibit B to the DPA is replaced with the revised Exhibit B annexed to this Amendment as Exhibit B. The Contractor must sign the revised Exhibit B.
5. The Contractor hereby represents and warrants that there are no changes to the Contractor's Data Security and Privacy Plan attached to the DPA as Exhibit C.
6. This Amendment may be executed in one or more counterparts, all of which will be considered one and the same agreement. The Amendment may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.
7. Other than as herein specifically set forth, the Agreements remain unmodified and in full force and effect.

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

**HAUPPAUGE UNION FREE
SCHOOL DISTRICT**

By: _____


David M. Barshay
President, Board of Education

Date: _____

8/23/22

**SIMAREN CORP D/B/A WISDOM
PROTECTIVE SERVICES**

By: _____


Kay Simaren
Executive Director

Date: _____

7/8/2022

SCHEDULE A

SERVICES

Armed Guards: Wisdom shall provide onsite Personnel who are licensed, trained, armed professional security guards for security for the District's five school buildings in Hauppauge, New York on regular school days, generally Monday through Friday, excluding school holidays and vacations (one guard per building) as follows:

- Hauppauge High School, 6:30 AM to 2:30 PM
- Hauppauge Middle School, 8:00 AM to 4:00 PM
- Pines Elementary School, 8:00 AM to 4:00 PM
- Bretton Woods Elementary School, 8:00 AM to 4:00 PM
- Forest Brook Elementary School, 8:00 AM to 4:00 PM

Except as necessary to perform the Services, the Wisdom personnel shall at all times have their weapons on their person and concealed.

Modification (Hours/# Personnel): The District's Director of Security may adjust the number of armed guards and/or hours to be provided under this Agreement to reflect changes in the need for security coverage (e.g., the need for additional coverage for special events or due to an increased threat level). Changes in coverage level should be made in writing and communicated by email to either Wisdom's Executive Director (Kay Simaren: mrkay@wisdomprotective.com), the District's assigned Wisdom Operations Manager (Rich Lawrence: rlawrence@wisdomprotective.com) or in the event of a heightened threat level requiring urgent attention, the Command Center (dispatch@wisdomprotective.com).

Security Readiness: The Personnel shall be responsible for reviewing and familiarizing themselves with the emergency plans and procedures for their assigned building and all other buildings in the District. Wisdom will assist the District in complying with the Safe School Act and Project Save, including without limitation, by taking such measures and making such recommendations that in its professional determination are necessary for the District to comply.

Incident/ Hazards: If there is a security incident such as an intrusion or alarm, the onsite Personnel assigned to the building shall investigate and call 911 for emergency response as necessary. Any security incidents or noted hazards shall be reported to the District by Wisdom on forms provided by the District for this purpose.

Interaction with District Personnel: The primary District contact(s) for each site shall be either the Director of Facilities and/or the Building's principal each of which shall communicate to Personnel requests and instructions. However, responsibility for prioritizing and coordinating duties to satisfy District requests lies with Wisdom.

District Equipment: The District will provide the onsite Personnel with a key, cell phone and/or wireless two-way communication device to facilitate the provision of the Services at a particular building. The onsite Personnel shall carry these items on their person at all times while onsite and return them to the building Principal or other designated building administrator at the end of each school day.

Standards Specific to Described Services:

- *Law Enforcement Experience:* The Personnel shall be active, retired or currently employed as local, state or federal law enforcement officers. Wisdom will furnish the District a list of current or prior law enforcement work experience upon request for each guard.
- *Training:* The Personnel shall have proof of having taken certified weapons trainings course as well as supplemental training including, but not limited to, training on suspicious packages, response to active shooter incidents and enhanced terrorism awareness and response
- *Fitness for Duty:* The Personnel must possess the physical fitness to perform the essential functions of the job (with reasonable accommodation if necessary). If there is any doubt as to the capabilities, the District shall engage with Wisdom to assess and if necessary mitigate the situation. Personnel shall not report to the District if they are in any way mentally or physically impaired, such as, by drug or alcohol use, or illness.
- *Appearance:* The Personnel must present as well-kempt with proper hygiene.
- *Conduct:* The Personnel are expected to conduct themselves in a helpful and courteous manner consistent with professional industry standards.

SCHEDULE B

FEES & EXPENSES

The Fee for the Services described in Schedule A shall be the number of hours worked multiplied by the applicable hourly rate for the day the Services. The applicable hourly rate at the beginning of the Term shall be as set forth below:

Regular Rate (Weekdays/Weekends straight time hours)	\$38.60 per hour
Overtime Rate and Holiday Rate	\$57.90 per hour

Overtime rate applies when guard's hours exceed 40 hours in any workweek or more than 8 hours in any day. Holiday hours apply to hours worked on any school holiday.

Whenever an updated Prevailing Wage Rate and/or Supplement Benefit is published by the New York State Department of Labor and becomes effective, the applicable hourly rates shall be updated to reflect the total percentage change, increase or decrease of the Prevailing Wage Rate plus the Supplemental Benefit rate.

For example, if the straight time Prevailing Wage Rate plus Supplemental Benefit rate equals \$20.00 and the new Prevailing Wage Rate plus Supplemental Benefit increases to \$20.60, a 3% increase (\$.60/\$20.00). The calculation of the applicable hourly rate shall be determined by multiplying the then applicable hourly rate under this Agreement by 1.03% ($\$35.98 * \$1.03 = \$37.06$).

EXHIBIT B

EXHIBIT B: BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

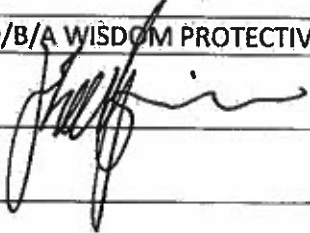
**SUPPLEMENTAL INFORMATION FOR CONTRACTS THAT UTILIZE
PERSONALLY IDENTIFIABLE INFORMATION**

Pursuant to Education Law § 2-d and 8 NYCRR § 121.3, the District is required to post information to its website about its contracts with third-party contractors ("Service Agreements") that will receive Personally Identifiable Information ("PII") from Student Data or Teacher or Principal APPR Data.

SIMAREN CORP D/B/A WISDOM PROTECTIVE SERVICES	
Term of Service Agreement	Agreement Start Date: July 1, 2021 Agreement End Date: June 30, 2023
Description of the purpose(s) for which Contractor will receive/access/use PII	PII received by the Contractor will be received, accessed and used only to perform the Contractor's Services pursuant to the Service Agreement with the District. List Purposes: School security.
Type of PII that Contractor will receive/access	Check all that apply: <input checked="" type="checkbox"/> Student PII <input type="checkbox"/> Teacher or Principal APPR Data
Subcontractor Written Agreement Requirement	The Contractor will only share PII with entities or persons authorized by the Service Agreement. The Contractor will not utilize Subcontractors without written contracts that require the Subcontractors to adhere to, at a minimum, materially similar data protection obligations imposed on the contractor by state and federal laws and regulations, and the Service Agreement. Check applicable option. <input checked="" type="checkbox"/> Contractor will not utilize Subcontractors. <input type="checkbox"/> Contractor will utilize Subcontractors.
Data Transition and Secure Destruction	Upon expiration or termination of the Service Agreement, the Contractor will, as directed by the District in writing: • Securely transfer data to District, or a successor contractor at the District's option and written discretion, in a format agreed to by the parties.

	<ul style="list-style-type: none"> Securely delete and destroy data by taking actions that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means.
Challenges to Data Accuracy	<p>Parents, students, teachers or principals who seek to challenge the accuracy of PII will do so by contacting the District. If a correction to data is deemed necessary, the District will notify the Contractor. The Contractor agrees to facilitate such corrections within 21 calendar days of receiving the District's written request.</p>
Secure Storage and Data Security	<p>The Contractor will store and process PII from Student Data or Teacher or Principal APPR Data in compliance with § 2-d(5) and applicable regulations of the Commissioner of Education, 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 Service Agreement. The Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.</p> <p>Please describe where PII will be stored and the security protections taken to ensure PII will be protected and data security and privacy risks mitigated in a manner that does not compromise the security of the data:</p> <p>(a) Storage of Electronic Data (check all that apply):</p> <p><input type="checkbox"/> Using a cloud or infrastructure owned and hosted by a third party.</p> <p><input type="checkbox"/> Using Contractor owned and hosted solution</p> <p>X Other: The Contractor represents and warrant that it will not store PII obtained from Student Data or Teacher or Principal APPR Data from the District electronically.</p> <p>(b) Storage of Non-Electronic Data: The Contractor represents that it will not store PII obtained from Student Data or Teacher or Principal APPR Data in any form.</p> <p>(c) Security Protections: Neither the District nor Contractor will communicate any PII from Student Data or Teacher or Principal APPR Data electronically to the other party, unless the communication occurs on the District's computer network or another secure portal that the District owns and maintains. The District is advised that it may communicate verbally to the Contractor's Executive Director who will ensure that dissemination of that information will be made</p>

	verbally only to those who need such information to perform the Services or through the District's computer network or another secure portal that the District owns and maintains.
Encryption	If, at any time, PII from Student Data or Teacher or Principal APPR Data is received, the PII will be encrypted while in motion and at rest.

SIMAREN CORP D/B/A WISDOM PROTECTIVE SERVICES	
By: (Signature)	
(Printed Name)	
Kay Simaren	
(Title)	
Executive Director	
Date:	
07/08/2022	

SERVICES AGREEMENT
(School Security Guard & Related Services)

This Services Agreement ("*Agreement*") effective July 1, 2021, sets forth the terms and conditions that will apply to the services to be rendered by Simaren Corp dba Wisdom Protective Services ("*Wisdom*") and the Hauppauge Union Free School District (the "*District*") for the provision by Wisdom of security and related services ("*Services*") to the District as further described herein.

1. **Engagement of Services.** The District hereby retains Wisdom to provide the Services set forth in Schedule A to this Agreement, as the same may be amended and supplemented from time to time. Subject to the terms of this Agreement, any additions to or extensions of the Services will be made by written request setting forth the applicable details (each such request an ("*Assignment*"). No such Assignment will be effective until it is agreed to, in writing, by Wisdom's Executive Director and an authorized representative of the District. To the extent there is any conflict between an Assignment and this Agreement, the Assignment will control with respect to those Services provided pursuant to that Assignment only. This Agreement will control with respect to all other general terms of the relationship between the parties hereto. Wisdom will perform the Services set forth in Schedule A and in any Assignment(s) in a professional matter consistent with industry standards and the terms of this Agreement.
2. **Term.** This Agreement will have an initial term of one year (from July 1, 2021 to June 30, 2022), which may be extended by mutual written agreement of the District and Wisdom (the "*Term*").
3. **Termination.**
 - (a) **For Convenience.** Prior to the expiration of the Term, either party may terminate this Agreement or any Assignment hereunder at its convenience upon sixty (60) days' prior written notice to the other party, or in the case of any Assignment, upon such shorter notice period as may be agreed within the terms of the Assignment.
 - (b) **Uncured Breach of Contract.** Prior to the expiration of the Term, either party may terminate this Agreement or any Assignment hereunder upon twenty (20) days' prior written notice because of a material breach of this Agreement, provided such notice details the nature of the breach and affords the other party a reasonable opportunity and at least fifteen (15) days to cure such breach.
 - (c) **For Cause.** Notwithstanding anything in Section 3(b) to the contrary, either party may terminate this Agreement and each Assignment hereunder for cause upon contemporaneous written notice to the other. For this purpose, "*cause*" means any of the following: in the case of Wisdom: (i) the breach by Wisdom or any Wisdom Personnel (as defined in Section 7(a) below) of the District's policies relating to the health or safety of students or District employees; (ii) Wisdom's failure to maintain the insurance coverage required under Section 13 of this Agreement, or (iii) Wisdom's breach of any legal obligation related to the Services under any applicable law or regulation; and in the case of the District: (iv) the breach by the District of the non-circumvention provision in Section 6(d), or (v) the District's requirement that Wisdom take any action or refrain from taking any action, in either case, that would violate any applicable law.
 - (d) **Bankruptcy or Insolvency.** This Agreement and all Assignments hereunder will automatically terminate if either party files a voluntary petition in bankruptcy or makes an assignment for the benefit of credits or upon the taking or suffering of any other action, voluntarily or involuntarily, pursuant to any federal or State law for the benefits of insolvents and upon the filing of an involuntary petition in bankruptcy against such party which is not dismissed within sixty (60) calendar days of filing.

4. **Fees and Expenses.** As compensation for Services rendered under this Agreement, the District will pay Wisdom:

(a) The fees and expenses calculated at the rate or in the manner set forth on Schedule B, the Fees & Expenses Schedule:

(b) Such additional or different fees that will be agreed to between the parties for any Assignment, as set forth in the written Assignment; and

(c) The amount necessary to reimburse Wisdom for expenses incurred by Wisdom at the District's direction or for which the District provided written approval in advance of incurrence, provided that Wisdom provides documentation reasonably acceptable to the District evidencing the expenditure.

The District will not be responsible for expenses related to Wisdom's general business overhead (e.g., phone, computers).

If this Agreement or an Assignment is terminated, the District will only be obligated to pay Wisdom those fees and expenses related to the Services actually performed prior to the effective date of termination.

5. **Invoices.** Wisdom will submit monthly invoices to the District for fees and expenses, together with all substantiating documentation required to be provided under applicable law, including without limitation, certified payrolls and back up time records, detailing the exact hours, days and locations the Services were provided during the invoice period. Unless otherwise provided with respect to a particular Assignment, payment terms are net 60 days. In the event this Agreement is terminated for any reason, Wisdom will deliver the invoices to the District within 30 days following the termination date.

6. **Personnel; Prohibition of Direct Hire.**

(a) Wisdom will be responsible for supplying onsite Personnel (as defined in Section 7(a) below) to provide the Services under this Agreement. In the event that onsite Personnel assigned to the District are absent or unavailable for any reason, Wisdom will provide adequate, qualified, licensed, trained substitute security personnel when the security personnel servicing the District are absent for any reason. Wisdom will not outsource any of the Services to any other company or entity to provide the Services herein without the express, prior, written permission of the District.

(b) Wisdom will maintain a "Command Center" that is available to the District 24 hours per day, 7 days per week. The phone number for the Command Center is (516) 762-0010. The Command Center also may be accessed at the following email: dispatch@wisdomprotective.com.

(c) The responsibility for providing the labor, materials, supplies, equipment and supervision necessary for the Services, including the scheduling, coordination and planning for coverage lies with Wisdom.

(d) In recognition of the efforts expended by Wisdom and challenges presented in recruiting and retaining qualified security personnel under this Agreement and to prevent circumvention of the service relationship between the parties, the District agrees that it will not engage or employ or utilize directly or indirectly any Personnel in any capacity (e.g., as employee, employer, owner, operator, manager, advisor consultant, agent, volunteer, intern) to provide security services or solutions, unless more than 12 months will have elapsed since the individual has provided Services to the District or Wisdom expressly consents in writing; provided, however, that the foregoing prohibition will not apply to any Personnel employed on a site covered by this Agreement within the 12 month period preceding the Term. The District's violation

of this provision will be a material breach of this Agreement and, as described in Section 3(c) of this Agreement, will afford Wisdom the opportunity to terminate the Agreement for Cause.

7. **Representations.** Wisdom represents and warrants that:

(a) Wisdom and all personnel performing Services and their supervisors ("*Personnel*") under this Agreement will have all permits, licenses and registrations legally required to perform the Services. Specifically, onsite Personnel will each hold a security guard registration card issued by the New York State Department of State Division of Licensing Services (as an armed guard or unarmed guard), and for Personnel who will serve as armed guards, valid pistol permits and other authorizations required to lawfully carry and use their firearms in performing the Services.

(b) Wisdom will determine the suitability of the Personnel based on reasonable diligence which will include at a minimum, a criminal check of local, State and federal authorities. The District will have the right to inspect such background checks upon request. The District will have the right to conduct its own investigation into the Personnel. If necessary, Wisdom will obtain an appropriate release form to facilitate the District's investigation and will cooperate with such investigation.

(c) Onsite Personnel including supervisory Personnel will be a minimum of 21 years of age, and will have received fingerprint clearance prior to providing the Services.

(d) Onsite Personnel will satisfy such additional requirements applicable to the worksite and the Services as set forth in Schedule A or in a particular Assignment, as applicable.

(e) The District will have the right to require Wisdom to remove Personnel from working at or for the District for any lawful reason.

8. **Confidential Information & Intellectual Property.**

(a) In the course of providing Services, Wisdom and onsite Personnel may become privy to *Confidential Information* (as defined below), including *District Data* (as defined below). Wisdom agrees that during the term of this Agreement and thereafter, except as expressly authorized in writing by the District, it (i) will not use or permit the use of Confidential Information in any manner or for any purpose not expressly set forth in this Agreement to any third party (i.e., to a person other than Wisdom or authorized representatives of the District), without first obtaining the express written consent of the District on a case-by-case basis, (ii) will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of the Confidential Information; (iii) will use the Confidential Information to perform its obligations under this Agreement and for no other purpose except as may be required by applicable law or with the express written consent of the District, on obtained on a case by case basis, and (iv) that it will only collect Confidential Information data from the District or District employees or other authorized persons in the course of performing Services that is necessary or ancillary to providing the Services under this Agreement; and (v) that it will not remove any tangible embodiment of any Confidential Information from any District site without the prior written consent of the District. Additionally, Wisdom acknowledges that regardless of whether expressly described when Services are requested for an Assignment, each Assignment will be deemed to include a request that Wisdom use reasonable precautions to assure that Confidential Information to which it and its Personnel may become privy is properly protected and kept from all unauthorized persons.

(b) For this purpose, "*Confidential Information*" is defined as sensitive, confidential, personal or proprietary information about the District and individuals who work, live in, and attend school in the District, (1) that is not publicly known (other than public knowledge due to the disclosure in breach of this

Agreement by Wisdom or its Personnel), (2) that the District designates as proprietary or confidential or otherwise seeks to keep confidential, or (3) that the District is bound to keep confidential, except that student and personnel data will be considered protected *Confidential Information* regardless of whether it is made public. Confidential Information includes, without limitation, (i) *District Data*: business, administrative and financial data, intellectual property, student and personnel data, and metadata that is obtained by Wisdom directly from the District or in the course of providing the Services, and (ii) any *Personally Identifiable Information* or "PII" including, but is not limited to: (A) a person's name or address or the names or addresses of a student's parents or other family members; (B) any personal identifier (e.g., SSN, student number or biometric record); (C) indirect identifiers (e.g., date of birth, place of birth, or mother's maiden name); (D) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person in the school community who does not have personal knowledge of the relevant circumstances to identify the individual with reasonable certainty; and (E) any information requested by a person who the District or Wisdom reasonably believes knows the identity of the person to whom a record relates.

(c) As part of its efforts to safeguard Confidential Information, the District may limit access to certain "sensitive" areas (i.e., areas where sensitive Confidential Information is maintained) to pre-authorized Personnel. The District will apprise Wisdom of any such restrictions.

(d) Following the termination of this Agreement or any Assignment, Wisdom will and will cause its Personnel to return to the District or to permanently destroy any and all documents or other materials containing Confidential Information.

(e) If Wisdom or any of its Personnel is required to disclose any Confidential Information by law or pursuant to a subpoena or an order of a judicial, legislative, executive, regulatory or administrative body, Wisdom will give written notice to the District promptly.

(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 Wisdom has a limited, non-exclusive license to use District Data solely to perform the Services pursuant to this Agreement.

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

(h) In furtherance of the party's common goals in enforcing the covenants in this Section 8, Wisdom will execute and deliver a Data Privacy Agreement annexed hereto as Exhibit A simultaneously with the execution and delivery of this Agreement.

(i) All the provisions of this Section 8 will survive the expiration or sooner termination of this Agreement.

9. District or Site-Specific Policies; Wisdom Policies.

(a) During the Term, Wisdom will cause its Personnel to adhere to all lawful District and site-specific policies applicable to District service providers, including without limitation, the District's anti-harassment and anti-discrimination policies and regulation and the District's Code of Conduct (collectively, the "Policies"), copies of which have been posted to <http://www.hauppauge.k12.ny.us/domain/602>. The

Policies will supplement Wisdom's own policies (including Wisdom's anti-harassment, anti-discrimination and anti-retaliation policies and Wisdom's drug & alcohol policy).

(b) Wisdom supports the District's efforts to maintain a workplace free from unlawful harassment, discrimination and retaliation and drug and alcohol free. In the event, an issue arises, or a claim is made, under any of the Policies (including, without limitation, the District's anti-harassment or anti-discrimination policies) involving, or witnessed by, any Personnel, the party first made aware of the issue will promptly notify the other, pursuant to the Notice provisions set forth in Section 15, preferably by email, and depending on the sensitivity of the issue also phone the other party. After initial notice is provided, the District and Wisdom agree to cooperate to ensure that there is a full and fair investigation and take such mitigating strategies to ensure compliance with the District's Policies and Wisdom's own EEO policies, which Wisdom represents meet or exceed the requirements of New York Labor Law Section 201-G, and pursuant to which Wisdom provides its own regular anti-sexual harassment training.

10. Compliance with Labor Law. In providing the Services hereunder, Wisdom will comply with labor laws applicable to the provision of building services to public schools in all material respects, including the following provisions:

(a) *Prevailing Wage.* To the extent required by Section 231 of the New York Labor Law, Wisdom will pay the Personnel at a wage rate and provide supplemental benefits that are no less favorable than the wage rates and supplemental benefits under the applicable prevailing wage schedule.

(b) *EEO in Contracting.* As required by Section 239 of the New York Labor Law, Wisdom will not, when hiring Personnel under this Agreement, discriminate against any qualified individual who is available to perform the work hereunder on the basis of race, creed, color, national origin, age, sex or disability or, once hired, discriminate against or intimidate any Personnel on account of their race, creed, national origin, age, sex or disability. Wisdom is advised that a violation of this provision may result in a penalty equal to \$50 per person per day for each day that a person was discriminated against or intimidated in violation of Section 239 of the New York Labor Law and that a second or subsequent violation may result in the cancellation of the Agreement by the District and the forfeiture of all monies then due.

11. Independent Contractor.

(a) Wisdom's relationship with the District is that of an independent contractor, and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. Neither Wisdom nor any Personnel providing Services is an agent of the District nor is Wisdom or the Personnel authorized to make any representation, contract, or commitment on behalf of the District.

(b) The Personnel are not employees of the District. While the District may make requests or offer instructions and directions consistent with the Services provided hereunder, the Personnel remain subject to the direction and control of Wisdom and not the District. As such, the District will not be obligated to offer or cover the Personnel under any District programs or benefit plans such New York State Retirement System benefits or group insurance.

(c) Wisdom remains solely responsible for all tax returns and payments required to be filed with or made to any federal, state, or local tax authority with respect to the Personnel and for making all required payments due under applicable state and federal laws related to payment of taxes, social security, disability, and other contributions based on compensation paid to its Personnel under this Agreement.

12. Indemnification.

(a) To the fullest extent permitted by law, Wisdom will defend, indemnify and hold harmless the District, its employees, agents, representatives and members of the Board of Education (the "*District Indemnitees*"), from and against any and all liabilities, losses, costs, damages and expenses (including, but not limited to reasonable attorney's fees and disbursements) (a "*Loss*"), arising from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the performance of the Services hereunder, any breach of this Agreement or the Data Privacy Agreement (annexed hereto as Exhibit A) by Wisdom or the action of, or the failure to act by, Wisdom (which in this case shall include Wisdom's representatives and employees); provided, however, that in no event will Wisdom be liable for any special, incidental, punitive or consequential damages arising out of this Agreement, regardless of any notice of such damages.

(b) The District will promptly notify Wisdom of any claim or demand or the initiation of any action or proceeding that may give rise to an indemnifiable Loss; provided however, that any delay will not relieve Wisdom of its indemnification obligation in Section 12(a) unless Wisdom is materially prejudiced by such delay.

(c) The District and Wisdom agree to cooperate in the defense of such matter so as to avoid or minimize any indemnifiable Loss. To the extent Wisdom can avoid or minimize the risk of Loss, Wisdom will be permitted to proceed unilaterally but will keep the District apprised of the status of the matter; provided, however, that if Wisdom unilaterally fails to take steps to avoid or minimize such Loss, the District shall have the right to assume the defense (including the reasonable attorney's fees of counsel selected by the District) and Wisdom will remain responsible for indemnifying the District in accordance with the terms of Section 12(a). Notwithstanding anything set forth above in this Section 12(c) to the contrary, neither the District nor Wisdom will have the authority to enter into a waiver, release or settlement of a legal action, proceeding, claim or demand against the other without the prior written consent of the other (which consent may not be unreasonably withheld).

(d) All of the provisions of this Section 12 will survive the expiration or sooner termination of this Agreement.

13. Insurance.

(a) During the Term, Wisdom will maintain in full force and effect the following insurance coverages, except to the extent the District in its sole discretion issues a written waiver of any such requirement signed by an authorized District representative:

(i) Commercial General Liability affording coverage for (but not limited to) sexual misconduct, assault and battery, defamation, false arrest, detention, imprisonment claims arising out of the Services with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate;

(ii) Security Professional Liability (but only if not covered by the aforementioned Commercial General Liability policy) covering the acts of onsite Personnel under this Agreement with limits of \$2,000,000 per occurrence and \$2,000,000 in the aggregate;

(iii) Automobile Liability affording coverage for owned, hired, borrowed and non-owned motor vehicles with a combined single limit of not less than \$1,000,000;

(iv) statutory Workers' Compensation and NY Nonoccupational Disability coverage for all Personnel, as required by applicable law; and

(v) Excess (Umbrella) Liability (on a follow-form basis) providing not less than \$10,000,000 per occurrence and in the aggregate over the coverage provided under the aforementioned liability coverages under Sections 13(a)(i) through 13(a)(iii) above.

All coverage requirements may be met with a combination of primary and excess coverage.

(b) All insurance will be written on a primary and non-contributory basis for the District, its Board of Education, employees and volunteers. All policies will be written through an insurance carrier with an A.M. Best rating of not less than "A-" or its equivalent.

(c) If any of the liability coverages under Sections 13(a)(i) through 13(a)(iii) above are written on a "claims made basis", any retroactive date covering the Services hereunder will pre-date the effective date of this Agreement and remain in effect for two years following the completion of the Services pursuant to this Agreement.

(d) Wisdom will add the District as an additional insured on the insurance policies under all coverages maintained under this Section 13 (other than statutory Workers' Compensation and NY Nonoccupational Disability coverage under Section 13(a)(iv)); the New York State Insurance Reciprocal ("NYSIR") in which the District is a member/owner will be a third party beneficiary of the District's coverage thereunder.

(e) Upon the District's request, Wisdom will provide the District with copies of the declaration pages for the liability insurance policies under Sections 13(a)(i) through 13(a)(iii), and under the excess liability policy under Section 13(a)(v) together with a copy of each endorsement on Form CG 2026 (or an equivalent reasonably acceptable to the District) that describes the Services, all of which will be attached to and referenced in the certificate of insurance to which it applies.

(f) Wisdom's failure to maintain the insurance coverage under this Section 13 will be a material breach of this Agreement and, as described in Section 3(c) of this Agreement, will afford the district the opportunity to terminate the Agreement for Cause.

14. **Force Majeure.** In the event of a disaster or emergency situation beyond either party's control (other than an onsite security emergency situation, like an active shooter, that the Services are intended to address), that affects the ability of Wisdom to provide Services hereunder such as a natural disaster, fire, riot, terrorist act, war, labor dispute or unforeseeable government action, failure to provide the Services will not be deemed to be a breach of this Agreement. Likewise, if the District has scheduled Services that are interrupted or canceled for any such reason, the District may cancel the Services without an obligation to pay for same.

15. **Notices.** Each party must deliver notices and other communications required or permitted under this Agreement in writing to the other party at the address listed on the signature page (as the same may be updated from time to time), including as applicable, email address, by courier, by regular, certified or registered mail (postage prepaid and return receipt requested), or by a nationally-recognized express mail service. Notice will be effective upon receipt or refusal of delivery, except that registered or certified mail will be deemed received 3 days after mailed and email will only be deemed received when personally acknowledged.

16. **Modification; Waiver.** This Agreement may not be changed orally. It can only be amended by written agreement, including an agreement regarding additional Assignments entered into in the manner described in Section 1. 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 unless expressly stated in writing signed by the party waiving.

17. **Law and Venue.** This Agreement will be governed by and construed and enforced in accordance with the laws of the State of New York, without reference to principles of conflict of laws. Any disputes will be adjudicated in the Supreme Court of the State of New York, Suffolk County, or the United States District Court for the Eastern District of New York. Each of the District and Wisdom consent to the exercise of personal jurisdiction over it by any of the foregoing courts and hereby waive any objection to the exercise of personal jurisdiction by any of the foregoing courts on the grounds of improper venue or inconvenient forum. To the maximum extent permitted by law, each of the District and Wisdom waive any right to have any dispute arising under or related to this Agreement tried before a jury.

18. **Severability; Construction.** If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. Unless the context clearly and unmistakably requires otherwise, a statement in this Agreement that a party "will take Action X" means that the party is required to take Action X and that a statement that party "will not take Action Y" means that the party is prohibited from taking Action Y.

19. **No Assignment.** Except as provided herein, neither party may assign this Agreement or delegate its obligations under this Agreement without the other party's express prior written consent. Any purported assignment in violation of the foregoing will be null and void.


20. **Entire Agreement.** This Agreement, the Data Privacy Agreement between the parties that is annexed to this Agreement, and any exhibits, schedules or riders to this Agreement or the Data Privacy Agreement contain the entire agreement of the parties with respect to the subject matter thereof and supersede any and all other agreements, understandings and representations, written or oral, by and between the parties.

21. **Required Records.** Wisdom will provide the 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.

22. **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).

IN WITNESS WHEREOF, the parties have caused this Services Agreement to be executed by their duly authorized representatives.

Hauppauge Union Free School District.


(Signature/Date)
By: 8/29/21

Title: President, Board of Education

Address for Notice:
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788-2836
Attn: Assistant Superintendent for
Business and Operations
Email: ttasmanj@hauppauge.k12.ny.us

Simaren Corp dba Wisdom Protective Services


(Signature/Date) 8/12/2021
By: Kay Simaren

Title: Executive Director

Address for Notice:
837 Old Country Road
Westbury, NY 11590
Email: mrkay@wisdomprotective.com

With a copy to:
Lamb & Barnosky, LLP
534 Broadhollow Road, Suite 210
P.O. Box 9034
Melville, New York 11747
Attn: Eugene R. Barnosky, Esq.
Email: erb@lambbarnosky.com

SCHEDULE A

SERVICES

August 31, 2021 for training and on

Armed Guards: Wisdom will provide onsite Personnel who are licensed, trained, armed professional security guards for security for the District's five school buildings in Hauppauge, New York on regular school days, generally Monday through Friday, excluding school holidays and vacations (one guard per building) as follows:

- Hauppauge High School, 6:30 AM to 2:30 PM
- Hauppauge Middle School, 8:00 AM to 4:00 PM
- Pines Elementary School, 8:00 AM to 4:00 PM
- Bretton Woods Elementary School, 8:00 AM to 4:00 PM
- Forest Brook Elementary School, 8:00 AM to 4:00 PM

Except as necessary to perform the Services, the Wisdom personnel will at all times have their weapons on their person and concealed.

Modification (Hours/# Personnel): The District's Director of Security may adjust the number of armed guards and/or hours to be provided under this Agreement to reflect changes in the need for security coverage (e.g., the need for additional coverage for special events or due to an increased threat level). Changes in coverage level should be made in writing and communicated by email to either Wisdom's Executive Director (Kay Simaren: mrkay@wisdomprotective.com), the District's assigned Wisdom Operations Manager (Mosa Parris: mparris@wisdomprotective.com) or in the event of a heightened threat level requiring urgent attention, the Command Center (dispatch@wisdomprotective.com).

Security Readiness: The Personnel will be responsible for reviewing and familiarizing themselves with the emergency plans and procedures for their assigned building and all other buildings in the District. Wisdom will assist the District in complying with the Safe School Act and Project Save, including without limitation, by taking such measures and making such recommendations that in its professional determination are necessary for the District to comply.

Incident/ Hazards: If there is a security incident such as an intrusion or alarm, the onsite Personnel assigned to the building will investigate and call 911 for emergency response as necessary. Any security incidents or noted hazards will be reported to the District by Wisdom on forms provided by the District for this purpose.

Interaction with District Personnel: The primary District contact(s) for each site will be either the Director of Facilities and/or the Building's principal each of which will communicate to Personnel requests and instructions. However, responsibility for prioritizing and coordinating duties to satisfy District requests lies with Wisdom.

District Equipment: The District will provide the onsite Personnel with a key, cell phone and/or wireless two-way communication device to facilitate the provision of the Services at a particular building. The onsite Personnel will carry these items on their person at all times while onsite and return them to the building Principal or other designated building administrator at the end of each school day.

Standards Specific to Described Services:

- **Law Enforcement Experience:** The Personnel will be active, retired or currently employed as local, state or federal law enforcement officers. Wisdom will furnish the District a list of current or prior law enforcement work experience upon request for each guard.
- **Training:** The Personnel will have proof of having taken certified weapons trainings course as well as supplemental training including, but not limited to, training on suspicious packages, response to active shooter incidents and enhanced terrorism awareness and response
- **Fitness for Duty:** The Personnel must possess the physical fitness to perform the essential functions of the job (with reasonable accommodation if necessary). If there is any doubt as to the capabilities, the District will notify Wisdom and Wisdom will assess and if necessary mitigate the situation. Personnel will not report to the District if they are in any way mentally or physically impaired, such as, by drug or alcohol use, or illness.
- **Appearance:** The Personnel must present as well-kempt with proper hygiene.
- **Conduct:** The Personnel are expected to conduct themselves in a helpful and courteous manner consistent with professional industry standards.

SCHEDULE B

FEES & EXPENSES

The Fee for the Services described in Schedule A will be the number of hours worked multiplied by the applicable hourly rate for the Services. The applicable hourly rate at the beginning of the Term will be as set forth below:

Regular Rate (Weekdays/Weekends straight time hours)	\$35.98 per hour
Overtime Rate and Holiday Rate	\$53.97 per hour

Overtime rate applies when a guard's hours exceed 40 hours in any workweek or more than 8 hours in any day. Holiday hours apply to hours worked on any school holiday.

Whenever an updated Prevailing Wage Rate and/or Supplement Benefit is published by the New York State Department of Labor and becomes effective, the applicable hourly rates will be updated to reflect the total percentage change, increase or decrease of the Prevailing Wage Rate plus the Supplemental Benefit rate.

For example, if the straight time Prevailing Wage Rate plus Supplemental Benefit rate equals \$20.00 and the new Prevailing Wage Rate plus Supplemental Benefit increases to \$20.60, a 3% increase (\$20.60/\$20.00). The calculation of the applicable hourly rate will be determined by multiplying the then applicable hourly rate under this Agreement by 1.03% ($\$35.98 \times 1.03 = \37.06).

EXHIBIT A

DATA PRIVACY AGREEMENT



HAUPPAUGE PUBLIC SCHOOLS

495 Hoffman Lane
P.O. Box 6006
Hauppauge, New York 11788

CATHERINE FREEMAN
Interim Assistant Superintendent for Business & Operations

TO: Board of Education

FROM: Catherine Freeman 

RE: SCOPE Universal Pre-K Program

DATE: July 20, 2023

The district is extending the contract with SCOPE for the Pre-Kindergarten Program for the 2023/24 school year.

SECOND AMENDMENT TO AGREEMENT
BETWEEN
HAUPPAUGE UNION FREE SCHOOL DISTRICT
AND
SCOPE EDUCATION SERVICES FOR PRE-KINDERGARTEN PROGRAM

This Second Amendment ("the Amendment") to the Agreement dated August 10, 2021 ("the Contract"), is made and entered into as of _____, 2023. The Hauppauge Union Free School District ("the "School District") and SCOPE Education Services ("the Contractor") are collectively referred to herein as the "Parties" and individually as a "Party."

WHEREAS the Parties entered into the Contract as amended by the attached Rider; and

WHEREAS, the Parties further amended the Contract pursuant to the attached Amendment dated August 23, 2022 ("the First Amendment"); and

WHEREAS, the Parties wish to further extend the term of the Contract and amend the Contract as hereinafter provided, and hereby agree that to the extent the provisions of this Amendment are inconsistent with the Contract, the Rider, and the First Amendment, the provisions of this Second Amendment will control.

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 Amendment as if fully set forth therein and hereby agree as follows:

1. The first two sentences of Paragraph 13 of the Contract are amended to read as follows (now three sentences):

"The School District will pay the Contractor a monthly fee, per class section of up to 18 students, in the amount of \$10,440. If a class section is increased to the maximum allowed (19 or 20 students), an additional monthly fee of \$2,000 will be payable by the School District to the Contractor for, among other things, increased cost due to compliance with the requirement of additional staff pursuant to 8 NYCRR §151-1.3(d). Monthly invoices will reflect the number of class sections, as approved by the District."

2. The first sentence of Paragraph 25 of the Contract is amended to read as follows:

"The term of this Agreement will be from July 1, 2023 to and including June 20, 2024."

3. This Amendment may be executed in one or more counterparts, all of which will be considered one and the same agreement. This Amendment may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.
4. Other than as herein specifically set forth, the Contract remains unmodified and in full force and effect.


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

**HAUPPAUGE UNION FREE
SCHOOL DISTRICT**

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

Date: _____

SCOPE EDUCATION SERVICES

By: 
Name: George L. Duffy
Title: Executive Director/CEO
Date: 7/19/23

**AMENDMENT TO AGREEMENT
BETWEEN
HAUPPAUGE UNION FREE SCHOOL DISTRICT
AND
SCOPE EDUCATION SERVICES FOR PRE-KINDERGARTEN PROGRAM**

This Amendment ("the Amendment") to the Agreement dated August 10, 2021 ("the Contract"), is made and entered into as of 8/22, 2022. The Hauppauge Union Free School District ("the "School District") and SCOPE Education Services ("the Contractor") are collectively referred to herein as the "Parties" and individually as a "Party."

WHEREAS, the Parties entered into the Contract as amended by the attached Rider to which this Amendment is attached; and

WHEREAS, the Parties wish to extend the term of the Contract and amend the Contract as hereinafter provided, and hereby agree that to the extent the provisions of this Amendment are inconsistent with the Contract, the provisions of this Amendment will control.

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 Amendment as if fully set forth therein and hereby agree as follows:

1. The first two sentences of Paragraph 13 of the Contract are amended to read as follows:

"The School District has allotted \$5400.00 per student for the 2022/23 school year for placement in the Pre-Kindergarten Program operated by the Contractor. Of that amount the District will pay Contractor \$5400.00 per student."

2. The first sentence of Paragraph 25 of the Contract is amended to read as follows:

"The term of this Agreement will be from July 1, 2022 to and including June 20, 2023."

3. Paragraph 4, Subparagraph B(2) of the Rider is amended by adding "with a waiver of subrogation in favor of the School District" after the word "volunteers."

4. The following additional sublimits are added to Paragraph 4, Subparagraph F(1) of the Rider:

- Products and Completed Operations - \$2,000,000
- Personal and Advertising Injury - \$1,000,000
- Sexual Misconduct and Assault - \$1,000,000
- Fire Damage - \$100,000
- Medical Expense - \$10,000

5. This Amendment may be executed in one or more counterparts, all of which will be considered one and the same agreement. This Amendment may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.
6. Other than as herein specifically set forth, the Contract remains unmodified and in full force and effect.

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

**HAUPPAUGE UNION FREE
SCHOOL DISTRICT**

By: _____

David M. Barshay
President, Board of Education

Date: _____

8/23/2022

SCOPE EDUCATION SERVICES

By: _____

Name: George C. Duffy
Title: Executive Director/CEO

Date: _____

8/16/22

**RIDER TO AGREEMENT WITH SCOPE EDUCATION SERVICES
FOR THE 2021-2022 UPK PROGRAM**

To the extent that the provisions of this Rider are inconsistent with the attached contract dated 8 10, 2021 between the Hauppauge Union Free School District ("the School District") and SCOPE Education Services ("the Contractor") to which this Rider is attached, the provisions of this Rider will control. The Contract and this Rider are collectively hereinafter referred to as "the Agreement."

1. Paragraph 4 of the Contract (Attendance and Calendar Requirements) is hereby deleted and replaced with:

"The Contractor must maintain a daily record of student attendance and forward attendance information to the School District each week. The Contractor must operate on the same school calendar as the School District. Students are to attend the Pre-Kindergarten Program five days/week for five hours per day for 180 days."

2. Paragraph 2 of the Contract (Compliance With State Law and Regulations) is amended by deleting the references to "8 N.Y.C.R.R. § 151-1.2 through and including § 151-1.13; and §151-2.1 through and including § 151-2.2" and replacing those references with "Part 151 of the Regulations of the Commissioner of Education."
3. Paragraph 9 of the Contract (Facilities, Supplies and Equipment) is amended by deleting the references to "8 N.Y.C.R.R. § 151-1.2 through and including § 151-1.3; and §151-2.1 through and including § 151-2.2" and replacing those references with "Part 151 of the Regulations of the Commissioner of Education."

4. Paragraph 10 of the Contract (Insurance) is hereby deleted and replaced with:

"A. Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Contractor hereby agrees to effectuate the naming of the School District as an Additional Insured on the Contractor's insurance policies, except for workers' compensation and N.Y. State Disability insurance.

B. Each policy naming the School District as an Additional Insured must:

1. Be an insurance policy from an A.M. Best A- rated or better insurer, licensed in New York State; and
2. State that the Contractor's coverage is primary and non-contributory coverage for the School District, its Board, employees and volunteers.

C. Additional insured status must be provided by standard or other endorsements that extend coverage to the School District (CG 20 26 or its equivalent). The decision to accept any endorsement rests solely with the School District. A completed copy of the endorsement(s) must be attached

to the Certificate of Insurance. Additional insured status must cover and extend to all School District property and facilities, including, but not limited to all areas used by the Contractor, and sidewalks, walkways, parking lots, entrances, stairs, and all other areas incidental to and/or connected with the use of the School District property and facilities by the Contractor.

- D. At the School District's request, the Contractor must provide copies of the declarations pages of the liability and umbrella/excess policies with a list of endorsements and forms. If so requested, the Contractor will provide a copy of the policy endorsements and forms.
- E. The Contractor hereby indemnifies the School District for applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Contractor, to the extent not covered by the applicable policy.
- F. The Contractor will obtain, at the Contractor's sole cost and expense, and keep in full force and effect during the term of the Agreement the following insurance:
 - 1. **Commercial General Liability Insurance**
\$1,000,000 per occurrence/ \$3,000,000 aggregate.
\$1,000,000 coverage for sexual misconduct.
 - 2. **Automobile Liability**
\$1,000,000 combined single limit for owned, hired, borrowed and non-owned motor vehicles.
 - 3. **Workers' Compensation and NYS Disability Insurance**
Statutory Workers' Compensation (C-105.2 or U-26.3); and NYS Disability Insurance (DB-120.1) 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 person seeking an exemption must file a CE-200 Form with the state. The form can be completed and submitted directly to the WC Board online.
 - 4. **Professional Errors and Omissions Insurance**
\$2,000,000 per occurrence/ \$2,000,000 aggregate for the professional acts of the Contractor performed under the Agreement for the School District. If written on a "claims-made" basis, the retroactive date must pre-date the inception of the Agreement. Coverage must remain in effect for two calendar years following the completion of work.
 - 5. **Umbrella/Excess Insurance**

\$4 million each Occurrence and Aggregate. Umbrella/Excess coverage shall be on a follow-form basis over the required General Liability coverage.

- G. If a policy is written on a "claims-made" basis, the retroactive date must pre-date the inception of the Agreement.
- H. The Contractor acknowledges that failure to obtain such insurance on behalf of the School District constitutes a material breach of contract. The Contractor is to provide the School District with a certificate of insurance, evidencing the above requirements have been met, prior to the commencement of work pursuant to the Agreement."

5. Paragraph 11 of the Contract (Indemnification) is hereby deleted and replaced with:

"To the fullest extent permitted by law, the Contractor indemnifies and will defend (with counsel selected by the School District) and hold harmless the School 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 Contractor's use of the School District's facilities, and/or the Contractor's operation of the Universal Pre-K Program for School District residents and/ or the action of, or the failure to act by the Contractor, the Contractor's representatives, employees, subcontractors, or anyone for whose acts the Contractor may be liable.

The Contractor understands and agrees that its use of the School District property and facilities includes, but is not limited to, sidewalks, walkways, parking lots, entrances, stairs, and other areas incidental to and/or connected with the School District property and facilities ("Incidental Areas"). The Contractor agrees that all its indemnity and defense obligations extend to the Incidental Areas.

In the event that any legal proceeding is instituted or any claim or demand with respect to the foregoing be asserted by any person in respect of which indemnification may be sought from the Contractor under the provisions of this Paragraph, the School District will promptly notify the Contractor of legal proceeding, claim or demand, and give the Contractor an opportunity to defend and settle same without any cost to the School District, and will extend reasonable cooperation to the Contractor in connection with the defense, which will be at the expense of the Contractor. In the event that the Contractor fails to defend the same within 30 calendar days of receipt of the notice, the School District will be entitled to assume the defense thereof, and the Contractor will be liable to repay the School 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 School District to notify Contractor of a legal proceeding, claim or demand will not relieve the Contractor of any obligation that the Contractor has pursuant to this paragraph unless and only to the extent that the failure to notify the

Contractor materially prejudices the Contractor. The Contractor 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 District (which consent will not be unreasonably withheld). All of the provisions of this paragraph will survive the expiration or termination of the School District's use of the school facilities.

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

6. Paragraph 12 of the Contract (Fire Safety Requirements) is hereby deleted and replaced with:

"Facilities and classrooms operated by the Contractor on behalf of the School District must meet the requirements of all applicable laws, rules and regulations, including, but not limited to 8 NYCRR 151-1.7. The School District represents that all facilities and classrooms provided to the Contractor by the School District are, or will be, in compliance with all applicable laws, rules and regulations at the commencement of the term of the Agreement."

7. Paragraph 14 of the Contract (Staffing and Staff Development) is amended by deleting "thirty (30) days" and replacing it with five (5) school days" and deleting "within two (2) days" and replacing it with "immediately." In addition, Paragraph 14 of the Contract is amended by deleting the references to "§80" and replacing those references with "Part 80."

8. Paragraph 16 of the Contract(Termination) is hereby deleted and replaced with:

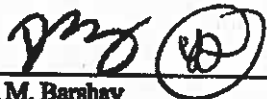
"A. The Agreement may be terminated by the School District "for cause" upon the occurrence of any of the following events:

1. Immediately upon the School District delivering written notice to the Contractor of a breach by the Contractor of any of the policies, rules and regulations of the School District relating to the health or safety of students or School District employees;
2. Immediately upon the Contractor's breach of the Contractor's obligations to provide the required insurance coverage;
3. Immediately upon the Contractor's breach of any of the Contractor's obligations pursuant to, or violation of, any applicable State or federal law or regulation; or
4. Fifteen calendar days after the Contractor has received written notice from the School District that the Contractor has breached any of the Contractor's other obligations hereunder unless, within the 15-calendar day period, the Contractor cures the breach to the School District's satisfaction.

- B. The Agreement may be terminated, at any time, by the School District for convenience upon 30 calendar days' written notice to the Contractor. Upon termination of the Agreement for convenience by the School District, the Contractor is entitled to receive all sums due, accrued and unpaid as of the date of termination.
- C. In the event of termination for any reason, all reports and services due to the School District must be completed by the Contractor and delivered to the School District within 30 calendar days of the termination date."
9. **Negotiated Agreement:** The Agreement is a negotiated Agreement. It will not be construed against any party by reason of the Agreement being prepared by that party's attorney. Each party warrants that it/he/she has full power to execute, deliver and perform the Agreement and has taken all actions required by law, organizational documents or otherwise to authorize the execution and delivery of the Agreement.
10. **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 Rider as of the latter date that appears below.

HAUPPAUGE UNION FREE SCHOOL DISTRICT

By: 
David M. Barahay
President, Board of Education

Date: 8/10/21

SCOPE EDUCATION SERVICES

By: 
George L. Duffy, Executive Director

AGREEMENT, made this 10th day of August, 2021, by and between the BOARD OF EDUCATION, HAUPPAUGE UNION FREE SCHOOL DISTRICT (hereinafter referred to as the School District), with offices for the transaction of business located at 495 Hoffman Lane, Hauppauge, NY 11788 and SCOPE EDUCATION SERVICES (hereinafter referred to as the Contractor) with offices for the transaction of business located at 100 Lawrence Avenue, Smithtown, New York 11787.

WHEREAS, Chapter 436 of the Laws of 1997 and '3602-e of the Education Law of the State of New York established the New York State Universal Pre-Kindergarten Program, open to the application and participation of all School Districts, and

WHEREAS, the aforesaid Program provides school districts an opportunity to obtain State funding for four-year-old children to participate in a Pre-Kindergarten Program; and

WHEREAS, applications for funding that contain strong collaborative arrangements with local Pre-Kindergarten providers were given preference by the State, and

WHEREAS, the application of the Hauppauge School District was successful and included the placement of sixty six (66) children in the Pre-Kindergarten Program operated by the Contractor, and,

WHEREAS, it is necessary for the Hauppauge School District and the Contractor to enter into this Agreement to effectuate the aforesaid placement,

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. AUTHORITY.

This AGREEMENT is entered into and authorized by '3602-e of the Education Law of the State of New York, and by Chapter 436 of the Laws of 1997. The purpose of this Agreement is to establish the terms and conditions of an agreement between the School District and the Contractor for the provision of Pre-Kindergarten services to students placed in said Program by the School District.

2. COMPLIANCE WITH STATE LAW AND REGULATIONS.

The Pre-Kindergarten Program operated by the Contractor shall during the term of this Agreement comply in all respects with the Regulations of the Commissioner of Education pertaining to Pre-Kindergarten Programs contained in 8 N.Y.C.R.R. §151-1.2 through and including §151-1.13; and §151-2.1 through and including §151-2.2. (The Contractor acknowledges that it is familiar with the aforesaid regulations, has reviewed them and shall be responsible for compliance with any amendments thereto.) In the event that the School District shall determine that the Pre-Kindergarten Program operated by the Contractor is not in compliance, or in the event that the School District is given notice thereof by the State of New York or any agency or department thereof, the School

District shall immediately give the Contractor notice thereof. Thereupon, this Agreement shall be terminated.

3. REGISTRATION.

All students referred for placement with the Contractor's Pre-Kindergarten Program through the School District Universal Pre-Kindergarten Program must have registered with the Hauppauge School District central registration office.

4. ATTENDANCE AND CALENDAR REQUIREMENTS.

The Contractor shall maintain a daily record of student attendance and forward attendance information to the School District each week.

The Contractor must operate on the same school calendar as the School District. Students are to attend the Pre-Kindergarten Program five days/week for 5 hours per day for 180 days.

Children who do not attend on a regular basis or are regularly late to the Program shall be referred to the School District's Pre-Kindergarten Coordinator/Principal. Upon a determination by either the Contractor or the School District that attendance is deficient, a meeting with the parent shall be promptly held by the Contractor to determine the reasons for the attendance problem and to identify steps to resolve the attendance problem. Inability to resolve the problem after documented interventions should be referred in writing to the School District Universal Pre-Kindergarten Coordinator/Principal.

Children who do not attend class or are late for two (2) consecutive weeks without an appropriate medical excuse or other reasonable explanation shall be removed from the roster by the Contractor, or at the direction of the Hauppauge School District Universal Pre-Kindergarten Coordinator/Principal. In the former event, the School District Universal Pre-Kindergarten Coordinator/Principal shall be promptly notified in writing that such action has been taken.

5. DISCIPLINE AND SUSPENSION OF STUDENTS.

Pre-Kindergarten students placed with the School District's Pre-Kindergarten Program shall only be suspended from attendance following notice to the School District's Universal Pre-Kindergarten Coordinator/Principal, and following the application of appropriate due process procedures which shall include notice to the child's parent or person in parental relation, and an opportunity for the child and his/her parent or person in parental relation to be heard. A decision to seek suspension shall be premised upon the child's behavior (which shall have been documented), and shall be preceded by application of appropriate non-suspension interventions, parent input and involvement, and involvement of special needs personnel, if appropriate. No suspension shall be effectuated without the prior written approval of the School District's Universal Pre-Kindergarten Coordinator/Principal.

6. CUMULATIVE FOLDERS.

The Contractor shall maintain cumulative folders with notification of parent-teacher conferences/contacts, and other important information relative to the child. These cumulative folders shall be turned over to the School District at the end of the 2021/2022 school year.

7. CURRICULUM.

The Contractor shall provide the curriculum and related instructional materials. Assessment records must be maintained for each child and a copy thereof shall remain on file in each student's cumulative folder.

8. ANNUAL ASSESSMENT.

The District shall be responsible for evaluating the Program and provide reporting in accordance with the Universal Pre-Kindergarten grant.

9. FACILITIES, SUPPLIES AND EQUIPMENT.

The Contractor shall maintain appropriate supplies and materials for each Pre-Kindergarten child. (Nothing herein contained shall diminish the responsibility of the Contractor to comply with the facility requirements of 8 N.Y.C.R.R. §151-1.2 through and including §151-1.3; and §151-2.1 through and including §151-2.2).

10. INSURANCE

SCOPE shall purchase from and maintain in a company or companies lawfully licensed to do business in the State of New York, such insurance as will protect SCOPE and the School District from claims set forth below for which SCOPE may be legally liable whether such operations be by SCOPE or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Notwithstanding any terms, conditions or provisions, in any other writing between the parties, SCOPE hereby agrees to effectuate the naming of the School District as an additional insured on SCOPE's insurance policies, with the exception of Workers' Compensation and Professional Liability. If the policy is written on a claims-made basis, the retroactive date must precede the date of the contract. The policy naming the School District as an additional insured shall:

- a. Be purchased from an A.M. Best rated "A-X" insurer, licensed as an "admitted carrier" in New York State.
- b. Contain a 30-day notice of cancellation, non-renewal or reduction of coverage.
- c. State that the organization's coverage shall be primary coverage for the School District, its Board, officers, employees and volunteers.

d. The School District shall be listed as an additional insured by using endorsement CG 2026 or broader. The certificate must state that this endorsement is being used. If another endorsement is used, a copy shall be included with the certificate of insurance.

Required Insurance:

a. Commercial General Liability including products/completed operations and personal injury liability, including sexual misconduct. All suppliers are required to include evidence of Broad Form Company's endorsement. Limits of \$1,000,000 each occurrence for bodily injury, property damage and personal injury with a \$3,000,000 aggregate limit. Separate aggregate limit shall apply to Product/Completed Operations.

b. Workers' Compensation and Employers Liability providing statutory limits as required by the State of New York.

c. Umbrella Liability providing follow form over underlying policies with limits of \$4,000,000 each occurrence/aggregate.

d. Professional Errors and Omissions Insurance: \$1,000,000 per occurrence/\$2,000,000 aggregate for the professional acts performed under the contract for SCHOOL DISTRICT. If written on a "claims-made" basis, the retroactive date must pre-date the inception of the contract or agreement. Coverage shall remain in effect for two (2) years following the completion of work.

In the event that any of the insurance coverage to be provided by SCOPE contains a deductible, SCOPE shall indemnify and hold the School District harmless from the payment of such deductible, which deductible shall in all circumstances remain the sole obligation and expense of SCOPE.

SCOPE further acknowledges that its failure to obtain or keep current the insurance coverage required by this section shall constitute a material breach of contract and subjects SCOPE to liability for damages, including but not limited to direct, indirect, consequential, special and any other damages the School District sustains as a result of this breach. In addition, SCOPE shall be responsible for the indemnification to the School District of any and all costs associated with such lapse in coverage, including, but not limited to, reasonable attorneys' fees. SCOPE shall not be considered "approved" until it has obtained all insurance required under this specification and such insurance has been approved by the School District.

Before commencement of its services, SCOPE shall obtain and pay for insurance as may be required to comply with the indemnification and hold harmless provisions outlined under this Agreement.

11. INDEMNIFICATION.

Notwithstanding the provisions of this Agreement regarding insurance, and without limitation as to the coverages specified, the Contractor hereby agrees to protect, defend, indemnify and save the

Huappage Union Free School District and its board members, Superintendent of Schools, officers, employees, and agents free and harmless from any and all claims, demands, actions, suits, liabilities, settlements, costs, losses, penalties, and expenses, including attorneys' fees, court costs and other expenses of litigation or administrative proceeding, or incurred by or imposed on Licensor in connection with the investigation or defense relating to such claim or litigation or administrative proceeding of any nature, resulting directly or indirectly from or pertaining to arising out of or in connection with, this Agreement or the Contractor's business and operations, however caused, or arising out of any act, happening, or other event occurring on or at the franchised business which is not the act of the Huappage Union Free School District, its agents or representatives. This paragraph shall survive termination of this Agreement.

12. FIRE SAFETY REQUIREMENTS.

Buildings and classrooms operated by the Contractor on behalf of the School District shall meet the New York State Uniform Fire Prevention and Building Code (9 N.Y.C.R.R. Parts 600 through 1250), 8 N.Y.C.R.R. § 151-2.7 and 155.7 or its equivalent (notwithstanding the exemption for schools in cities with populations over 125,000 persons) and Part 418 of the Regulations of the Department of Social Services (18 N.Y.C.R.R. Part 418). The School District represents that all buildings and classrooms provided to the Contractor by the School District are, or will be, in compliance with all of the above regulations at the commencement of the term of this agreement.

13. METHOD OF PAYMENT.

The School District has allotted \$5,400.00 per student for the 2021/2022 school year for placement in the Pre-Kindergarten Program operated by the Contractor. Of that amount the District shall pay SCOPE Education Services \$5,400.00 per student. The Contractor will service students. The School District will make payment to the Contractor at the end of each month. The School District reserves the right based upon non-attendance to fill slots if they should become available throughout the school year. It is expressly understood and acknowledged by the Contractor that the funds for the Pre-Kindergarten placements contemplated hereunder are appropriated by grant through the State of New York. In the event of diminution or cessation of then current appropriations by the State, the School District reserves the right to cancel any then existing placements with the Contractor, or to terminate this Agreement in all respects with no recourse by the Contractor. The Contractor reserves the right to cancel any placements and to cease providing services in the event that the School District fails to make such payments as required by this Agreement whether resulting from diminution or cessation of then current appropriations or otherwise.

14. STAFFING AND STAFF DEVELOPMENT.

The Contractor shall provide the School District with information relative to staff members who are responsible for the instructional program of Universal Pre-Kindergarten students. This information shall include: Certification documents, educational background and training of all teachers and paraprofessional support staff who are directly involved with providing services to Universal Pre-Kindergarten students.

Within thirty (30) days of receipt of a written notice that the School District objects to the continued use of a certain employee of the Contractor to provide Pre-Kindergarten services to students placed by the School District, the Contractor shall remove said employee from any and all contact with School District students. However, if the objections to the employee of the Contractor relates to allegations of inappropriate sexual contact or corporal punishment, the Contractor shall remove the employee within two (2) days. The School District agrees that its reasons for objecting to any employee shall not be based upon the race, creed, religion, national origin, age, gender, ethnicity, handicapping condition or first amendment rights of such individual.

In accordance with its proposal, the Contractor affirms that all teachers employed by the Contractor and assigned to provide services to School District students hereunder shall be New York State certified teachers.

A Pre-Kindergarten teaching assistant providing instructional support in a Pre-Kindergarten classroom shall meet the requirements prescribed in § 80.1 of the N.Y.C.R.R.

A Pre-Kindergarten teacher aide providing support in a Pre-Kindergarten classroom must meet the requirements prescribed in § 80.1 of the N.Y.C.R.R.

All staff hired for this Program are subject to Part 87 of the Commissioner's Regulations (8NYCRR Part 87), concerning criminal history record checks, including fingerprint clearance. It shall be the responsibility of the District to ensure that all SCOPE Program personnel have received clearance by the New York State Education Department to be employed in accordance with Part 87. The District shall provide written notice to SCOPE of such approval upon receipt of such information from the State Education Department as well as any notice of criminal activity during the course of employment.

15. SUPERVISION OF PROGRAM.

The School District's Universal Pre-Kindergarten Coordinator/Principal, or other designated School District administrator, will conduct at least one (1) formal annual evaluation of the Program. In addition, informal random visitations will take place throughout the school year. The School District's Universal Pre-Kindergarten Coordinator/Principal shall have access to all elements of the Pre-Kindergarten Program including classroom visits, teacher observations, records and documents as deemed necessary by the School District or supervisor.

16. TERMINATION.

The School District may, without prejudice to any other rights or remedies contained in this Agreement or provided by law or equity, terminate this Agreement. Such termination shall be effective thirty (30) days after written notice (or such other notice as may be required by applicable state law) is given by the School District to the Contractor or the Contractor to the School District of any material breach of this Agreement.

17. ASSIGNMENT: CONDITIONS AND LIMITATIONS.

- (a) The Contractor shall not sell, assign, transfer or encumber this Agreement or any other interest hereunder, or suffer or permit any such assignment, transfer or encumbrance to occur by operation of law or otherwise, without the prior written consent of the School District.
- (b) If the Contractor is a corporation, partnership, unincorporated association or similar entity, the terms of this subparagraph (a) above shall be deemed to apply to any sale, resale, pledge, assignment, transfer or encumbrance of the voting stock of, or other ownership interest in, the Contractor.

18. NOTICES.

All notices hereunder shall be in writing and shall be duly given if hand delivered or sent by registered or certified mail, postage prepaid and addressed:

- (a) If to the School District, at:
Superintendent of Schools
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788
- (b) If to the Contractor, at:
SCOPE Education Services
100 Lawrence Avenue
Smithtown, New York 11787
Attention: Executive Director

or at such other address as the School District or the Contractor shall have specified by notice to the other party, provided by this Agreement.

19. GOVERNING LAW.

This Agreement has been made and entered into in the State of New York and all rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of New York.

20. REMEDIES CUMULATIVE; WAIVER; CONSENT.

All rights and remedies of the School District and of the Contractor enumerated in this Agreement shall be cumulative and, except as specifically contemplated otherwise by this Agreement, none shall exclude any other right or remedy allowed at law or in equity and said rights or remedies may be exercised and enforced concurrently. No waiver by the School District or by the Contractor of any covenant or condition or the breach of any covenant or condition of this

Agreement to be kept or performed by the other party shall constitute a waiver of any subsequent breach of such covenant or condition or authorize the breach or nonobservance on any other occasion of the same or any other covenant or condition of this Agreement. Subsequent acceptance by the School District of any payments due to it hereunder shall not be deemed to be a waiver by the School District of any preceding breach by the Contractor of any terms, covenants or conditions of this Agreement.

Whenever this Agreement requires the School District's prior approval or consent, the Contractor shall make a timely written request to the School District therefore, and such approval shall be obtained in writing and in a timely manner. The School District makes no warranties or guarantees upon which the Contractor may rely, and assumes no liability or obligation to the Contractor, by providing any waiver, approval, consent, or suggestion to the Contractor in connection with this Agreement, or by reason of any neglect, delay or denial of any request therefore. Any waiver granted by the School District shall be subject to the School District's continuing review, may subsequently be revoked for any reason effective upon the Contractor's receipt of ten (10) days prior written notice, and shall be without prejudice to any other rights the School District may have.

21. SEVERABILITY.

If any provision of this Agreement or the application of any provision to any person or to any circumstances shall be determined to be invalid or unenforceable, then such determination shall not affect any other provision, or the application of any provision to any other person or circumstance, all of which other provisions shall remain in full force and effect, and it is the intention of the School District and the Contractor that, if any provision of this Agreement is susceptible of two or more constructions, one of which would render the provision enforceable and the other or others of which would render the provision unenforceable, then the provision shall have the meaning that renders it enforceable.

22. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement between the School District and the Contractor in respect of the subject matter hereof, and this Agreement supersedes all prior and contemporaneous agreements between the School District and the Contractor in connection with the subject matter of this Agreement. No officer, employee or other servant or agent of the School District or the Contractor is authorized to make any representation, warranty or other promise not contained in this Agreement. No change, termination or attempted waiver of any of the provisions of this Agreement shall be binding upon the School District or the Contractor unless in writing and signed by the School District and the Contractor.

23. COUNTERPART; PARAGRAPH HEADINGS; PRONOUNS.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The paragraph headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect any provision thereof. Each pronoun used herein shall be deemed to include the

other number and genders.

24. EQUAL OPPORTUNITY EMPLOYER.

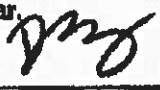
The Contractor is an equal opportunity employer and as such does not discriminate on the basis of race, creed, color, religion, national origin or disability.

25. COMPLIANCE WITH OTHER LAWS.


The Contractor shall comply with all other requirements of the State of New York required to operate a Pre-Kindergarten Program.

25. TERM.

The term of this Agreement shall be from September 1, 2021 to and including June 30, 2022. Based upon the mutual agreement of the parties, this Agreement may be renewed thereafter from year to year.



President
Board of Education
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788
Date: 8/10/21



George L. Duffy
Executive Director
SCOPE Education Services
100 Lawrence Avenue
Smithtown, NY 11787
Date: 8/5/21



HAUPPAUGE PUBLIC SCHOOLS

495 Hoffman Lane
P.O. Box 6006
Hauppauge, New York 11788

CATHERINE FREEMAN

Interim Assistant Superintendent for Business & Operations

TO: Board of Education

FROM: Catherine Freeman 

RE: Change Order #7 - High Tech Air Conditioning Service, Inc.

DATE: July 20, 2023

Change Order #7 for Hi-Tech Air Conditioning Service, Inc. in the amount of \$15,916 is for labor to remove and replace (6) existing isolation valves, including re-insulation to existing piping where removed to install the new valves.

BBS ARCHITECTS LANDSCAPE ARCHITECTS ENGINEERS

FREDERICK W. SEEBA, PE, MANAGING PARTNER
LAWRENCE SALVESEN, AIA, PARTNER
KEVIN J. WALSH, AIA, PARTNER
KENNETH G. SCHUPNER, AIA, PARTNER
JOSEPH B. RETTIG, AIA, PARTNER
GARY W. SCHIEDE, AIA, PARTNER
ROGER P. SMITH, AIA, FOUNDING PRINCIPAL

July 13, 2023

Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, NY 11788

Attention: Ms. Brigid Siena
Asst. Supt. of Business & Operations

Re: Hauppauge Union Free School District
Localized Interior Renovations at
Existing Tech Wing & New STEM Lab at
Hauppauge High School
SED No. 58-05-06-03-0-008-050
BBS File No.: 20-366

Dear Ms. Siena:

For the above referenced project, enclosed please find four (4) A.I.A. Document G701 - **Change Order No. 7**, in the amount of **\$15,916.00** for **Hi-Tech AC Service, Inc.**, the Mechanical Contract as prepared by our office.

Please review this change order and sign all four copies and return them to our office for further processing.

If you have any questions or comments concerning this matter, please do not hesitate to contact our office.

Very truly yours,


Steven P. Walsh, AIA
Senior Associate

SPW: jlb
Enclosures

CHANGE ORDER

AIA DOCUMENT G701

OWNER ☒
ARCHITECT ☒
CONTRACTOR ☒
FIELD ☐
OTHER ☐

SED No. 58-05-06-03-0-008-050

Project Manager: Michael Kosar

PROJECT: Hauppauge Union Free School District
(name, address) Interior Renovations at Tech Wing &
New STEM Lab at Hauppauge High School
500 Lincoln Blvd., Hauppauge, NY 11788

CHANGE ORDER NUMBER: 7

DATE: July 7, 2023

ARCHITECT'S PROJECT NO.: 20-366

TO CONTRACTOR: Hi Tech Air Conditioning Service, Inc.
(name, address) 60 Otis Street
West Babylon, New York 11704

CONTRACT DATE: April 12, 2022

CONTRACT FOR: Mechanical Construction

The Contract is changed as follows:

1. Supply off-hour labor differential charges (2nd shift) as required to remove and replace (6) existing isolation valves, including re-insulation to existing piping where removed to install the new valves.

Add: \$ 15,916.00

Total Additional Cost..... \$ 15,916.00

Not valid until signed by the Owner, Architect and Contractor.

The original (Contract Sum) (~~Guaranteed Maximum Price~~) was \$ 200,000.00
Net change by previously authorized Change Orders \$ 166,265.39
The (Contract Sum) (~~Guaranteed Maximum Price~~) prior to this Change Order was \$ 366,265.39
The (Contract Sum) (~~Guaranteed Maximum Price~~) will be (increased) (~~decreased~~)
(unchanged) by this Change Order in the amount of \$ 15,916.00
The new (Contract Sum) (~~Guaranteed Maximum~~) including this Change Order will be \$ 382,181.39
The Contract Time will be (~~increased~~) (~~decreased~~) (unchanged) by zero (0) days.
The date of Substantial Completion as of the date of this Change Order therefore is unchanged.

NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive.

BBS ARCHITECTS, LANDSCAPE ARCHITECTS & ENGINEERS, PC

ARCHITECT (631) 475-0349

244 E. Main Street

Address

Patchogue, NY 11772

By

Frederick W. Seeba, PE, LEED AP

Date 07/07/2023

Hi Tech Air Conditioning
Service, Inc.

CONTRACTOR (631) 491-5210

60 Otis Street

Address

West Babylon, NY 11704

By

Date

7/11/23

Hauppauge Union Free School
District

OWNER (631) 265-3630

495 Hoffman Lane

Address

Hauppauge, NY 11788

By

Date

AIA DOCUMENT G701 · CHANGE ORDER · 1987 EDITION · AIA® · ©1987 ·

THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVE., N.W., WASHINGTON D.C. 20006

G701-1987

SPW

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CHANGE ORDER CERTIFICATION

FP-COC 07/02

Page One

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / Albany, NY 12234

Office of Facilities Planning, Room 1060 Education Building Annex

Tel. (518) 474-3908 Fax (518) 486-5918

www.emsc.nysed.gov/facplan/

Instructions: This CERTIFICATION is required for all change orders submitted to SED
Fill out all three parts completely.

Change Order Number:

7

Part One - General Information**Provide separate Change Orders for each Project Number**

SED Project Number

5	8	0	5	0	6	0	3	0	0	0	8	0	5	0
---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

District BEDS Code

Building Identification Number

Project number

District & Building Name

Hauppauge Union Free School District - Hauppauge High School

Type of Project

☒ Reconstruction / Alteration ☐ Addition & Alteration ☐ New Building ☐ Other

Project Description

Interior Renovations at Tech Wing & New STEM Lab @ Hauppauge High School

Architect / Engineer firm

BBS ARCHITECTS, LANDSCAPE ARCHITECTS & ENGINEERS, PC
name244 E Main St Patchogue, NY 11772
address

Contact Person

Steven P. Walsh, AIA, Project Manager
name & title(631) 475-0349; swalsh@bbsarch.com
phone number & e-mail

Construction Manager firm

Hauppauge Union Free School District
name495 Hoffman Lane, Hauppauge, NY 11788
address

Contact Person

Glenn Holm, Facilities Director
name & title(631) 265-3045; holmgl@hauppauge.k12.ny.us
phone number & e-mail

District Contact Person

Dr. Donald B. Murphy, Ed.D, Superintendent
name & title(631) 265-3045 murphydo@hauppauge.k12.ny.us
phone number & e-mail**Part Two****Provide the following information for each individual item in the change order:**

(Number each item if there is more than one and provide additional sheets as necessary.)

- A. **Requested By** (Who initiated the change request)
- B. **Relationship to Project Scope** (How is this change related to the original project scope)
- C. **Basis of Need** (Describe why the change is needed)
- D. **Description of Work** (Provide a detailed description of the work or services provided in the change order. Provide text, a drawing or both as necessary to demonstrate code compliance and the individual cost of each item.)

Hi Tech Air Conditioning Service, Inc., to provide the following:

A. Requested By:

- 1. District Request.

B. Relationship to Project Scope:

- 1. Additional project cost (2nd shift labor upcharges).

C. Basis of Need:

- 1. Provide additional labor charges to conduct removal and replacement of (6) original isolation valves serving Wood Shop, Robotics Room & Drafting Room to allow for localized shutdown of areas for present and future work - work to be accomplished on 2nd shift hours.

D. Description of Work:

The Contract is changed as follows:

- 1. Provide additional labor charges to conduct removal and replacement of (6) original isolation valves serving Wood Shop, Robotics Room & Drafting Room to allow for localized shutdown of areas for present & future work. Work to be accomplished on 2nd shift hours (3:30 pm to 11:00 pm)

Add: \$ 15,916.00

CHANGE ORDER CERTIFICATION

FP-COC 07/02

Page Two

Part Three

1

Change order requirements:

- ✓ The scope of the change order must relate to the project scope previously approved.
- ✓ Dollar amounts applied from allowances toward costs associated with the changes must be provided.
- ✓ If the cost of this change order is not within the approved amount as currently established on the SA-4, please provide a Form FP-FI, Request for Revision of Financial Information, with documentation showing the additional authorization of funds.
- ✓ Each change order shall be signed by the president of the board of education, the architect/engineer, and the contractor.

2

Certification of the Superintendent of Schools (District Superintendent if a BOCES project)

The following statements are true and correct to the best of my knowledge and belief:

- The revised total cost is within the authorized appropriation for this project.
- Where any work of this change order requires a type or kind of work that is not included in the original contract documents, the school district's attorney has been contacted to assure conformance with the Opinion of the State Comptroller No. 60-505.

Date

Signature and printed name of the School Superintendent or District Superintendent if a BOCES project

3

Certification of the Architect or Engineer

The following statements are true and correct to the best of my knowledge and belief:

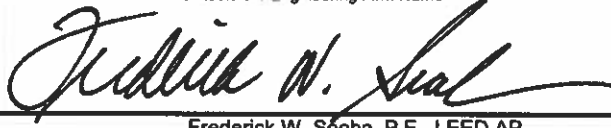
- Work required by this change order is in accordance with applicable sections of the approved contract documents.
- Any plan, sketch, or attachment referenced in this change order is included herein.
- Work required by this change order is in accordance with applicable provisions of the NYS Uniform Fire Prevention and Building Code, State Education Department's building standards, and NYS Department of Labor's Code Rule 56.
- Work required by this change order was designed by an architect or engineer who is currently licensed by the State of New York.
- Work required by this change order that involves asbestos-containing building material (ACBM) was designed by an architect or engineer who is currently licensed by the State of New York and who is appropriately certified as an asbestos designer by the NYS Department of Labor at the time he/she designed the asbestos-related project.

7/7/2023

Date

BBS ARCHITECTS, LANDSCAPE ARCHITECTS & ENGINEERS, PC

Architectural / Engineering Firm Name



Frederick W. Seeba, P.E., LEED AP



HAUPPAUGE PUBLIC SCHOOLS

495 Hoffman Lane
P.O. Box 6006
Hauppauge, New York 11788

CATHERINE FREEMAN

Interim Assistant Superintendent for Business & Operations

TO: Board of Education

FROM: Catherine Freeman 

RE: The Opportunity Pre-School, Inc.

DATE: July 20, 2023

The 2023/24 lease with The Opportunity Pre-School includes a 4% increase.

This **LEASE** between the **HAUPPAUGE UNION FREE SCHOOL DISTRICT**, having its Administrative Office located at 495 Hoffman Lane, Hauppauge, New York 11788 ("Lessor" and/or "School District" and/or "District") and **THE OPPORTUNITY PRE-SCHOOL, INC.**, a New York Corporation having an office located at 495 Hoffman Lane, Suite 3, Hauppauge, New York 11788 ("Lessee").

In consideration of the rent to be paid and all the covenants herein contained to be kept and performed by the Lessee, the Lessor hereby leases to the Lessee and the Lessee hires from the Lessor and agrees to take the demised premises hereinafter described, subject to the provisions of this Lease and all of the terms, covenants and conditions herein contained to wit: the following rooms at the premises known as 495 Hoffman Lane, Hauppauge, New York (the "Building"): Rooms 30, 31, 33, 34, 36, 40, 41, 42, 43, 44, 45, 46, 47, 48, the locker room, the library as well as Rooms 30A, 31A, 32A, 33A, 41A and 418 which six (6) rooms will, for purposes or rent, be deemed to be the equivalent of two and a half (2.5) rooms (collectively, the eighteen and a half (18.5) rooms are hereinafter sometimes called "demised premises", "leased premises" and "premises").

Lessee will have the right to rent additional rooms at the Building ("Additional Rooms") as follows: Lessee must give Lessor no less than two (2) weeks' written notice ("Lessee's Notice") of its election to rent additional room(s), and, provided the room(s) is (are) available and provided further that Lessee is not in default under the terms of this Lease, then on the first of the month following Lessee's Notice plus two weeks, the room(s) specified in the Notice will be added to the demised premises and will be leased subject to all of the terms of this Lease and the rent will be increased as set forth below in Article 3.

Lessee will also be leased and permitted during the term of this Lease, the non-exclusive use of the common areas and boys and girls bathrooms located most proximately to those portions of the premises referred to above and hereinafter, all of which taken together, will be deemed to constitute the demised premises.

Lessee must not use or permit or suffer the use of the premises contrary to any applicable statute, ordinance or regulation or in violation of any certificate of occupancy now in existence or hereafter issued in connection with the premises or in any manner which would cause structural injury or damage to the Building.

The leased premises are to be used and occupied only for the purpose of operating a Pre-school program and offering before and after care to students attending the Pre-School program.

TERM

1. (a) The term of this Lease will commence on July 1, 2023 and terminate on June 30, 2024 (or until such term will sooner cease and expire as hereinafter provided).

(b) Lessor and Lessee will each have the right to cancel this Lease upon not less than thirty (30) days written notice to the other.

TITLE

2. The premises are leased subject to any and all covenants, restrictions, agreements, rights, reservations and easements of record, governmental laws, rules, regulations and order, including but not limited to such provisions of the Education Law regarding voter approval and/or approval of the Commissioner of Education as may be

applicable.

RENT

3. The Lessee covenants to pay the Lessor at its principal office or at such place as Lessor will from time to time direct in writing at the monthly rate of \$33,189.21 for rent for the demised premises for the months of July 1, 2023 through June 30, 2024 ("minimum rent").

(a) Lessee will pay the minimum rent in equal monthly installments on the first day of each calendar month included in the term.

(b) All rent will be paid in lawful money of the United States which will be legal tender in payment of all debts and dues, public and private, at the time of payment, at the address of Lessor set forth in this Lease or at such other place as Lessor in writing may designate without (except as may be otherwise herein expressly provided) any set-off or deduction whatsoever and without any prior demand thereof.

(c) Unless another time will be herein expressly provided, any additional rent will become due and payable fourteen (14) calendar days from the date the Lessee receives written notice of demand, or together with the next succeeding installment of minimum annual rent, whichever will first occur; and the Lessor will have the same remedies for failure to pay the additional rent as for a non-payment of minimum annual rent.

(d) From and after the fifteenth calendar day after the due date of any payment of rent, Lessee will pay a late charge of five cents (\$0.05) for each One Dollar (\$1.00) of rent which is late. If payment of rent is not received within thirty (30) calendar days from the date it is due, interest will be charged upon said rent or any unpaid portion thereof at a rate of fifteen percent (15%) per annum from the original due date for payment thereof until rent is paid. If said rate of interest and/or late charges are found to be usurious, then Lessee will pay interest upon any unpaid rent or unpaid portion thereof at the maximum rate allowed by law.

(e) If Lessee defaults in making any payment required to be made by Lessee or in performing any obligation of Lessee under this Lease which will require the expenditure of money, Lessor may, but will not be obligated to make such payment on behalf of Lessee or expend such sum as may be necessary to perform or fulfill such obligation. Any sums so paid by Lessor will be deemed additional rent and will be due and payable to Lessor on demand.

CONDITION OF PREMISES

4. Lessee acknowledges that neither the Lessor nor its agents have made any representations with respect to the buildings, or the land upon which it is erected, and no rights, easements or licenses are acquired by Lessee by implication or otherwise, except as expressly set forth in the provision of this Lease, if any. The taking of possession by the

Lessee will be conclusive evidence that the Lessee accepts the same in its present "as is" condition and that the premises and building were in good condition at the time possession was taken, and Lessor will not be required to do any work or alterations in the premises unless agreed upon by the Di strict.

The Lessee specifically acknowledges that the Lessee will be responsible for installation and maintenance of its own phone and internet system at the premises. Lessee expressly acknowledges that, while the Lessor may maintain any existing electronic surveillance/monitoring system in the Building, the Lessor will not be required to do so or to otherwise provide security for the premises and Lessor will not be held accountable for having done so or failing to do so.

REPAIRS, MAINTENANCE, FLOOR LOADS AND RESTRICTIONS

5. (a) Lessee will at all times keep and maintain the demised premises in good order, condition and repair. Lessee will make all repairs required to the demised premises that are not required to be made by Lessor, including without limiting the generality of the foregoing:

- (i) generally keeping and maintaining the interior of the space in the demised premises in good repair and condition;
- (ii) keeping the demised premises clean and free of debris; and
- (iii) repair and maintenance of all windows and/or plate glass directly related to the use of the demised premises to the extent not necessitated by the actions of those other than Lessee's employees, students or invitees.

(b) During the term of this Lease, Lessor will make all repairs to the roof, exterior walls, interior walls and foundation of the premises, will maintain and repair the electrical, heating and plumbing systems and equipment; provided, however, that structural and other repairs required as a result of the acts (including installation(s) of equipment or alterations made by or on account of Lessee's occupancy) or negligence of Lessee, its agents, officers, employees, patrons, invitees or Lessees will be the responsibility of Lessee, the expense and cost of which repairs will be due and payable by Lessee to Lessor as additional rent.

Lessor will be responsible for snow plowing of the parking area and sidewalks. During times of extreme weather conditions (e.g., blizzard, state of emergency, hurricane), Lessor may not be able to give access to the Building or clear the parking area and sidewalks; the same will neither be a default nor actionable hereunder.

Lessor will have the option of performing any maintenance and/or repairs for which Lessee is responsible, for the account of Lessee, at Lessee's expense and the cost thereof will be due and payable by Lessee to Lessor as rent, provided that (absent emergency) ten (10) calendar days prior written notice is given to Lessee.

- (c) Lessor will not be required to commence any repairs required to be

performed by it until after notice from Lessee that same are necessary, which notice, except in the case of an emergency, will be in writing and will permit Lessor ten (10) calendar days in which to commence such repair. When necessary, by reason of accident or casualty occurring in the Building or at the premises or on the property, or in order to make any repairs, alterations or improvements in or relating to the Building or the premises, Lessor reserves the right to interrupt temporarily, and except in an emergency, on written notice to Lessee, the supply of utility services until said repairs, alterations or improvements will have been completed. There will be no abatement in rent because of any such interruption if Lessor will pursue such work with reasonable diligence and dispatch.

(d) Lessee will not place a load upon any floor of the premises which exceeds the floor load per square foot area which such floor was designed to carry. Business machines and mechanical equipment used by Lessee which causes vibration or noise will be placed and maintained by Lessee, at its expense, in settings of cork, rubber or spring-type vibration eliminators sufficient to eliminate such vibration or noise.

(e) Lessee will comply with the following restrictions with respect to the premises:

(i) Lessee will store all trash and refuse in appropriate sealed and covered containers provided for that purpose by the Lessor.

(ii) Lessee will receive all deliveries, load and unload goods, merchandise, supplies, fixtures, equipment, furniture and rubbish only through proper service doors and loading docks serving the Building, but in no event through the main front entrance thereof.

(iii) Lessee will not place or install or suffer to be placed or installed any sign upon the building or the premises unless such sign will first be approved in writing by Lessor, such approval not to be unreasonably withheld, delayed or conditioned, and permit therefore obtained from the Town of Islip, if required. Without limiting the aforesaid, all signs or lettering on or about the premises or the building will be neat and of reasonable size and in conformity with all local ordinances and requirements.

(f) Lessee will forthwith immediately remove any and all "graffiti" from the demised premises as a result of any of its staff, students or invitees. In the event same is not removed within forty-eight (48) hours of notification by the Lessor and demand that same be removed, the Lessor may remove same in which case any and all expenses of such removal will be due and payable within fourteen (14) calendar days from written demand as additional rent. The Lessor will deliver the premises clean from all "graffiti."

(g) Lessee will be solely and exclusively responsible for the supervision and actions of those on the premises in connection with or on account of Lessee's activities.

(h) Lessee will avoid in its advertising and elsewhere any indication or

appearance that its operation is sponsored by or in any other way associated with the School District. All advertising will include affirmative statement that Lessee is not part of the School District and notice to the same effect will be prominently displayed on the premises at all times.

LESSEE'S ALTERATIONS

6. Lessee will not make any alterations/modifications/additions of any kind or nature: in or to the premises or the building without Lessor's prior written consent in each instance. Lessor's consent will not be unreasonably withheld, conditioned or delayed if the alteration or modification is necessary for licensing purposes. The Lessee further acknowledges that, because the facility in which the demised premises are located is subject to the regulation of the NYS Education Department ("NYSED"), the approval by NYSED of plans and specifications will typically be required.

If it is mutually agreed that approved renovations will be performed by the Lessor for the Lessee, then the Lessee will pay the Lessor for said work and materials on the basis of cost, including labor and material and fees of the District architect in connection therewith, plus ten percent (10%). Lessee will pay for all such alterations/modifications/additions may, at Lessor's discretion, be required to make deposit(s) against the cost of same as a condition of Lessor's undertaking and/or completing same.

UTILITIES 'HEAT

7. Electricity, heat (minimum 68 F during business hours when the balance of the building is open for use and 55 F at other times) and water for use of the Lessee will be supplied by the Lessor through the existing facilities of the building. The Lessor will not be responsible for providing air conditioning. Lessee may install air conditioning units in the demised premises at its sole cost and expense, and Lessee will be solely responsible for the upkeep and maintenance of any air conditioning unit it installs in the demised premises. Lessee will be solely responsible for the installation of telephone and internet services and will pay any charges in connection therewith directly to the supplier of such services.

REQUIREMENTS OF LAW

8. (a) Lessee will promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements (including those which require structural alterations) of the federal, State, county and local government and of any and all their departments and bureaus applicable to the Premises, and will also promptly comply with and execute all rules, orders and regulations of the New York Board of Fire Underwriters for the prevention of fires at the Lessee's own cost and expense.

(b) Lessee will not occupy or use or permit or suffer the premises or any part thereof to be occupied or used for any unlawful or illegal business, use of purposes, nor for any business, use or purpose deemed by Lessor to be disreputable or extra-hazardous nor in such manner as to constitute nuisance of any kind, nor for any purpose or

in any way in violation of any present or future laws, rules, requirements, orders, directions, ordinances or regulations of the United States of America, or of the State, County or Local Government, or other municipal, governmental or lawful authority whatsoever. Lessee will immediately upon the discovery of any such unlawful, illegal, disreputable or extra-hazardous use, take all necessary steps, legal and equitable, to compel the discontinuance of such use and to oust and remove any sub-lessees, occupants or other persons guilty of such unlawful, illegal, disreputable or extra-hazardous use. Lessee will indemnify and save harmless the Lessor from and against any and all cost, expense, claim, loss, damage, judgment, liability, suit, fine or penalty, including reasonable counsel fees, rising out of or by reason of or on account of any violation of or in default in the provisions of this paragraph.

(c) Lessee will keep or cause the premises to be kept free of hazardous materials (not presently existing on the premises). Without limiting the foregoing, Lessee will not cause or permit the premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process hazardous materials, except in compliance with all applicable federal, State and local laws or regulations, nor will Lessee cause or permit, as a result of any intentional or unintentional act or omission on the part of Lessee or any sub-lessee, a release of hazardous materials onto the premises or onto any other property. Lessee will comply with and ensure compliance by all sub-lessees with all applicable federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and will obtain and comply with, and ensure that all sub-lessees obtain and comply with, any and all approvals, registrations or permits required thereunder.

(d) Lessee will conduct and complete all investigations, studies, samplings, and testing, and all remedial removal, and other actions necessary to clean up and remove all hazardous materials, on, from or affecting the premises

- (i) in accordance with all applicable federal, State and local laws, ordinances, rules, regulations, and policies;
- (ii) to the satisfaction of Lessor, and
- (iii) in accordance with the orders and directives of all federal, State and local governmental authorities.

(e) To the fullest extent permitted by law, Lessee will defend, indemnify, and hold harmless Lessor, its employees, agents, officers, members of the Board of Education and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to:

- (i) the presence, disposal, release or threatened release of any hazardous materials which are on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise;
- (ii) any personal injury (including wrongful death) or property

- damage(real or personal) arising out of or related to such hazardous materials;
- (iii) any lawsuit brought or threatened, settlement reached, or governmental order relating to such hazardous materials; and/or
 - (iv) any violation of laws, orders, regulations, requirements, or demands of government authorities, or any policies or requirements of Lessor which are based upon or in any way related to such hazardous materials, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses.

(f) In the event this Lease is terminated, or Lessee is dispossessed, evicted or ejected from the demised premises, Lessee will deliver the premises to Lessor free of any and all hazardous materials so that the conditions of the premises will conform to all applicable federal, State and local laws, ordinances, rules or regulations affecting the premises. For purposes of this paragraph, "Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 5101, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 9601, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule, or regulation.

INSURANCE

9. (a) The Lessee will obtain and keep in full force and effect during the term of this Lease, at the Lessee's sole cost and expense, the following insurance:

- **Commercial General Liability Insurance:**
 \$1,000,000 per occurrence/\$2,000,000 aggregate on a per location basis
 \$2,000,000 products and completed operations
 \$1,000,000 personal and advertising injury
 \$500,000 damage to demised premises each occurrence limit
 \$100,000 fire damage
 \$10,000 medical expense
- **Umbrella/Excess Insurance:**
 \$ 3,000,000 each occurrence and aggregate. Umbrella/Excess coverage must be on a follow-form basis over the required general liability coverage.
- **Property Insurance:** It is up to the Lessee and its insurance representative to determine the coverage necessary to cover the Lessee's business personal property, improvements and betterments and extra expense. The deductible must not exceed \$1,000. The policy must contain a waiver of subrogation in favor of the District.

(b) Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Lessee hereby agrees to effectuate the naming of the Lessor as an additional insured on Lessee's insurance policies, with the exception of workers' compensation and N.Y. State Disability insurance. Each policy naming the Lessor as an additional insured must:

- be an insurance policy from an A.M. Best A- rated or better insurer, licensed to conduct business in New York State; and
- state that the Lessor's coverage is primary and noncontributory coverage for the Lessor, its Board, employees and volunteers with a waiver of subrogation in favor of the Lessor.

(c) The Lessor must be listed as an additional insured by using standard or other endorsements that extend coverage to the Lessor (CG 20 26) or equivalent. The decision to accept an endorsement rests solely with the Lessor. A completed copy of the endorsement(s) must be attached to the certificate of insurance. At the Lessor's request, the Lessee will provide a copy of the declaration page of the liability and umbrella/excess policies with a list of endorsements and forms. If requested, the Lessee will provide a copy of the policy endorsements and forms.

(d) The Lessee agrees to indemnify and hold harmless the Lessor for applicable deductibles and self-insured retentions, all of which are the sole responsibility of the Lessee, to the extent not covered by the applicable policy.

(e) The Lessee acknowledges that failure to obtain the foregoing insurance on behalf of the Lessor constitutes a material breach of contract. The Lessee must provide the Lessor with proof satisfactory to the Lessor that the above requirements have been met prior to the commencement of the term of this Lease. The failure of the Lessor 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 Lessor. Upon request, the Lessee will provide the Lessor with a copy of the Lessee's applicable insurance policies including any endorsements, modifications, or exclusions thereto.

(f) Neither Lessor nor Lessee will be liable to the other for any business interruption or any loss or damage to property or injury to or death of persons occurring on the premises, or in any manner growing out of or connected with the Lessee's use and occupation of the premises, the building or the condition thereof, whether or not caused by the negligence or other fault of Lessor or Lessee and, or of their respective agents, employees, sub-lessees, Lessees, or assigns. This release will apply to the extent that such business interruption, loss, or damage to property or injury to or death of persons is covered by insurance, regardless of whether such insurance is payable to or protects Lessor or Lessee, or both. Nothing herein will be construed to impose any other or greater liability upon either Lessor or Lessee than would have existed in the absence of this provision. This release will be in effect only so long as the applicable insurance policies contain a clause to the effect that this release will not affect the right of the insured to recover under such policies. Such clauses will be obtained by the parties whenever possible. The release in favor of Lessor contained herein, is in addition to and

not in substitution for, or in diminution of the hold harmless and indemnification provisions hereof.

DAMAGE OR DESTRUCTION

10. (a) If the building is damaged or destroyed to the extent of ten percent (10%) or more of the then replacement value thereof, exclusive of foundations, by any cause, or should the damage be occasioned by a casualty for which there was no insurance, Lessor will have the right to terminate this Lease on written notice to Lessee served within sixty (60) calendar days after such damage or destruction.

(b) If the building is damaged to the extent of ten percent (10%) or less of the cost of replacement thereof, or damaged by any uninsured casualty, Lessor will have the option to rebuild or terminate this Lease to be exercised by notice to Lessee given not more than forty-five (45) calendar days from the date of such damage. If Lessor elects to rebuild, Lessor will, at its expense, with due diligence, repair and rebuild the structure of the premises to substantially the condition it was in immediately prior to such damage or destruction. The parties will promptly commence and diligently proceed with their restoration obligations hereunder.

(c) The provisions of this Article 10 will be considered an express agreement governing any case of damage or destruction of the Building or the demised premises within the Building by fire or other casualty and Section 227 of the Property Law of the State of New York and any other law of like import now or hereafter in force providing for such contingency will have no application.

INDEMNIFICATION

11. (a) To the fullest extent permitted by law, Lessee will indemnify, defend, save and hold Lessor, its employees, agents, representatives and members of the Board of Education, harmless from and against any and all liability, loss, damage, expense, cause of action, suit, proceeding or claim of any kind and nature, including, but not limited to costs, expenses and counsel fees that are paid by, imposed upon, incurred by or asserted against Lessor, its employees, agents, representative or any members of the Board of Education, arising out of or based upon, related to or in any way connected with the use or occupancy of the premises or the conduct or operation of Lessee's business unless such injury, loss, claim or damage is attributable solely to the negligence of Lessor or its agents, servants or employees.

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 Lessee pursuant to the provisions of this Agreement, the Lessor will promptly notify the Lessee of the legal proceeding, claim or demand, and give the Lessee an opportunity to defend and settle same without any cost to the Lessor, and will extend reasonable cooperation to the Lessee in connection with the defense, which will be at the expense of the Lessee. In the event that the Lessee fails to defend the same within thirty (30) calendar days of

receipt of the notice, the Lessor will be entitled to assume the defense thereof, and the Lessee will be liable to repay the Lessor 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 Lessor to notify the Lessee of a legal proceeding, claim or demand will not relieve the Lessee of any obligation that the Lessee has pursuant to this Paragraph unless and only to the extent that the failure to notify the Lessee materially prejudices the Lessee.

The Lessee 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 Lessor (which consent will not be unreasonably withheld).

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

(b) Lessee acknowledges that Lessor is an educational corporation. Accordingly, Lessee acknowledges that no officer, director, agent or Board of Education member of Lessor will be personally liable under the terms and conditions of this Lease. Lessee agrees to look solely to the corporate entity and its assets for satisfaction of any claims, liability or judgment arising hereunder.

EMINENT DOMAIN

12. (a) If, at any time during the term of this Lease, the whole of the Premises, or any part of the building will be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain, the Lessor will be entitled to and will receive any and all awards that may be made in any such proceeding; and the Lessee hereby assigns and transfers to the Lessor any and all such awards that may be made to Lessee.

The Lessee will not be entitled to any payment based *inter alia* upon the value of the unexpired term of this Lease, consequential damage to the land not so taken, fixtures, or alterations to the premises or their use or otherwise.

(b) If such proceedings will result in the taking of the whole premises or any part of the building, this Lease and the term hereof will terminate and expire on the date of such taking, and the basic rent, additional rent, and other sums or charges provided in this Lease to be paid by the Lessee will be apportioned and paid to the date of such taking.

(c) If only the land will be taken in such proceedings, this Lease will terminate only as to the portion of the land so taken, and this Lease will continue in full force and effect for the balance of its term as to the part of the premises remaining, without any reduction or abatement or effect upon the term hereof of the liability of the Lessee to pay in full the basic rent, the additional rent and all other sums and charges to be paid by Lessee.

RIGHT TO SUBLET OR ASSIGN

13. The lessee covenants that it will not assign this Lease or sublease the premises or any part thereof or permit the same to be used or occupied other than by Lessee without the prior written consent of Lessor in each instance. Lessee acknowledges and agrees that Lessor may withhold its consent for any reason whatsoever, or no reason, to an assignment of this Lease or sublet of the premises

RIGHT TO INSPECT

14. Lessee will permit Lessor or Lessor's agents to enter the premises and or Building at all reasonable hours for the purpose of:

- (a) inspecting the same;
- (b) making repairs required by the terms of this Lease to be made by Lessee and which Lessee neglects or refuses to make;
- (c) exhibiting the premises and or building to prospective purchasers and mortgagees;
- (d) exhibiting the premises and or building to brokers and prospective lessees; and
- (e) for the purpose of making any additions or alterations to the Building or to any surrounding building provided, in each and every case, Lessor will endeavor not to unreasonably interfere with the conduct of Lessee's business at the premises.

If, at reasonable hours, admission to the premises and/or building for the aforesaid purposes cannot be obtained, or, if at any time entry will be deemed necessary for the inspection or protection of the premises or for making any repairs, whether for the benefit of Lessee or not, Lessor or Lessor's agents may enter the premises and/or Building with reasonable force without rendering Lessor or its agents liable to Lessee for damages by reason thereof.

BANKRUPTCY

15. If, at any time prior to the commencement of the term of this Lease, or if at any time during the term there is filed by or against Lessee in any court, pursuant to any statute, either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's property, and within thirty (30) calendar days thereof Lessee fails to secure a discharge thereof or, if Lessee makes an assignment for the benefit of creditors or petition for or enters into an arrangement, this Lease, at the option of Lessor exercised within a reasonable time after notice of the happening of any one or more of such events, may be canceled and terminated, in which event neither Lessee, nor any person claiming through

or under Lessee, by virtue of any statute or of an order of any court will be entitled to possession or to remain in possession of the premises, but will forthwith quit and surrender the premises, and Lessor, in addition to any other rights, may retain any rent, security, deposit or monies received by it from Lessee or others on behalf of Lessee as partial liquidated damages.

DEFAULT

16. (a) It is expressly understood and agreed that: (i) if Lessee will fail to pay any security deposit, installment of rent, or any additional rent or other charges as and when the same are required to be paid hereunder; (ii) in case the demised premises will be deserted or vacated; (iii) if, without the consent of the Lessor, the Lessee will sell, assign, or mortgage this Lease; (iv) if the Lessee fails 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 their departments and bureaus, including the NYS Education Department, applicable to said premises; (v) if any execution or attachment will be issued against Lessee or any of Lessee's property whereupon the premises will be taken or occupied or attempted to be taken or occupied by someone other than Lessee; (vi) if Lessee fails to move into or take possession of the premises within fifteen (15) calendar days after commencement of the term of this Lease; (vii) if Lessee dissolves or liquidates or commences to dissolve or liquidate; (viii) if Lessee files or there is filed against Lessee a petition in bankruptcy or arrangement for the benefit of creditors or to take advantage of any insolvency act; or (ix) if Lessee defaults in fulfilling any of the other covenants of this Lease and such default will continue for a period of thirty (30) calendar days after written notice, or if the said default or omission complained of will be of such a nature that the same cannot be completely cured or remedied within said thirty (30) calendar day period, and if Lessee will not have diligently commenced curing such default within such thirty (30) calendar day period, and will not thereafter with reasonable diligence and in good faith proceed to remedy or cure such default, then, in any one or more of such events, the Lessor may, if the Lessor so elects, at any time thereafter: (a) without notice, re-enter the premises either by force or otherwise, and dispossess Lessee or other occupant by summary proceedings or otherwise, and remove their effects and hold the premises as if this Lease had not been made, and Lessee hereby waives the service of notice of intention to re-enter or to institute legal proceedings to that end; and/or (b) terminate this Lease and the term hereof, on giving to the Lessee five (5) calendar days' notice in writing of the Lessor's intention so to do, and this Lease and the term hereof will expire and come to an end on the date fixed in such notice as if the said date were the date originally fixed in this Lease for the expiration hereof and Lessee will then quit and surrender the premises to Lessor but Lessee will remain liable as hereinafter provided.

(b) Should Lessor be unable to comply with any of its obligations hereunder by reason of a law, ordinance or order of a governmental authority having jurisdiction, such failure will not be deemed a default hereunder.

DAMAGES

17. (a) If this Lease and the demised term expires and come to an end, by or under any summary proceeding, or any other action or proceeding or if Lessor will re-enter the premises, by or

under any summary proceedings or any other action or proceeding, then, in any of said events, Lessee will pay to Lessor all rent, additional rent and other charges payable under this Lease by Lessee to Lessor to the date upon which this Lease and the demised term will have expired and come to an end or to the date of re-entry upon the premises by Lessor, as the case may be.

(b) In the event that the relation of the Lessor and Lessee may cease or terminate by reason of the termination of the Lease, re-entry of the Lessor under the terms and covenants contained in this Lease or by eviction or ejectment of the Lessee by summary proceedings or otherwise or after abandonment of the premises by the Lessee, it is hereby agreed that the Lessee will remain liable and will pay in 0monthly payments the rent which accrues subsequent to the reentry by the Lessor, and the Lessee expressly agrees to pay as damages for the breach of the covenants herein contained, the difference between the rent reserved and the rent collected and received, if any, by the Lessor during the remainder of the expired term, such difference or deficiency between the rent herein reserved and the rent collected if any, will become due and payable in monthly payments during the remainder of the original term, as the amounts of such difference or deficiency will from time to time be ascertained; and it is mutually agreed between Lessor and Lessee that the respective parties hereto will and hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties against the other on any matters whatsoever arising out of or in any way connected with this Lease, the Lessee's use or occupancy of said premises, and or any claim of injury or damage.

ATTORNEY'S FEES

18. If Lessee is at any time in default hereunder, beyond the expiration of any applicable cure period, and if Lessor institutes an action or summary proceeding against Lessee based upon such default and Lessor is successful or the action or summary proceeding is voluntarily resolved by the parties, then Lessee will reimburse Lessor for the reasonable expenses of attorney's fees and disbursements incurred by Lessor in connection with the action or summary proceeding. The amount of such expenses will be deemed to be "additional rent" hereunder and will be: (a) included in any judgment awarded to the Lessor; or (b) due from Lessee to Lessor (i) on the first day of the month following the incurring of such expenses, or (ii) as agreed upon by the parties in any agreement settling the action or proceeding.

WAIVER OF REDEMPTION, COUNTERCLAIM, TRIAL BY JURY

19. Lessee hereby expressly: (a) waives any and all rights of redemption granted by or under any present or future laws in the event of Lessee being evicted, dispossessed or ejected for any cause, or in the event of Lessor obtaining possession of the premises, by reason of the violation by Lessee or any of the covenants and conditions of this Lease or otherwise; and (b) waives all rights to stay summary proceedings or any action based on non-payment of rent or any other payments or charges required to be made by Lessee to Lessor. Lessor and Lessee hereby waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other with respect to any matters arising out of or connected with this Lease, the relationship of Lessor and Lessee, Lessee's use or occupancy of the premises, and/or any claim of injury or damage and any emergency statutory or any other statutory remedy.

NO WAIVER

20. No act or thing done by Lessor or Lessor's agents during the term hereby demised will be deemed in acceptance of a surrender of the premises, and no agreement to accept such surrender will be valid unless in writing signed by Lessor. No employee of Lessor or of Lessor's agents will have any power to accept the keys of the premises prior to the termination of the Lease. The delivery of keys to any employee of Lessor or of Lessor's agents will not operate as a termination of the Lease or a surrender of the premises. The failure of Lessor to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Lease, will not prevent a subsequent act, which would have originally constituted a violation from having all the force and effect of an original violation. The receipt by Lessor of rent with knowledge of the breach of any covenant of this Lease will not be deemed a waiver of such breach. No provision of this Lease will be deemed to have been waived by Lessor unless such waiver is in writing signed by Lessor. The words "re-enter" and "re-entry" as used herein are not restricted to their technical legal meaning.

END OF TERM

21. On the last day of the term hereof or on the earlier termination thereof, Lessee will peaceably and quietly leave, surrender and deliver the premises up to Lessor, broom clean, and, pursuant to the requirement imposed by Section 403-a of the Education Law, Lessee will be obligated to restore the demised premises to its original condition less depreciation, provided that Lessor may waive such requirement if Lessee has made improvement to the demised premises which may not be removed without causing substantial damage to the demised premises. In addition, Lessee will remove all of its personal property from the demised premises and any property not so removed will be deemed to have been abandoned and may be appropriated, sold, stored, destroyed or otherwise disposed of by Lessor without notice of Lessee and without obligation to account therefor. Lessee's obligations under this Article 21 will survive the expiration of other termination of this Lease.

BROKER

22. Lessee represents that it dealt with no broker in connection with the negotiation or bringing about of this Lease. Lessee agrees that if any claim is made for a commission by any broker, by, through or on account of any act of Lessee, Lessee will hold Lessor free and harmless from any and all judgments, costs, causes of action, fee liabilities and expenses in connection therewith, including Lessor's reasonable attorney's fees.

QUIET ENJOYMENT

23. Lessor covenants that if and so long as Lessee pays the rent, and additional rent, and other charges reserved by this Lease, and performs all the terms, covenants and

conditions of this Lease on the part of Lessee to be performed. Lessee will quietly enjoy the premises subject, however to the terms of this Lease and of any interest to which this Lease by its terms is subject.

NONLIABILITY OF LESSOR

24. (a) Lessor and Lessor's agents and employees will not be liable for, and Lessee waives all claims for, loss or damage to Lessee's business or damage to person or property sustained by Lessee resulting from any accident or occurrence (unless caused by or resulting from the negligence of Lessor, its agents, servants or employees other than accidents or occurrences against which Lessee is insured) in or upon the premises, including, but not limited to claims for damage resulting from:

- (i) any equipment or appurtenances becoming out of repair;
- (ii) injury done or occasioned by wind;
- (iii) any defect in or failure of plumbing, heating or air conditioning equipment, electric wiring or installation thereof, gas, water and steam pipes, stairs, porches, railings or walks;
- (iv) broken glass;
- (v) the backing up of any sewer pipe or downspout,
- (vi) the bursting, leaking or running of any tank, tub, washstand, water closet, waste pipe, drain or other pipe or tank in, upon or near the building or the premises;
- (vii) the escape of steam or hot water;
- (viii) water, snow or ice being upon or coming through the roof, skylight, trapdoor, stairs, doorways, show windows, walks or any other place upon or near the building or the premises or otherwise;
- (ix) the falling of any fixture, plaster, tile or stucco; and
- (x) any act, omission or negligence of adjoining or contiguous buildings or of owners of adjacent or contiguous property.

(b) Lessor or a successor in interest will be under no personal liability with respect to any of the provisions of this Lease and if Lessor is in breach or default with respect to its obligations under this Lease, Lessee will look solely to the equity of Lessor in the premises in satisfaction of Lessee's remedies and in no event will Lessee attempt to secure any personal judgement against any Board of Education member, employee or agent of the Lessor by reason of such default by the Lessor.

(c) The word "Lessor" as used herein means only the owner in fee for the time being of the premises, and in the event of any sale of premises, Lessor will be and hereby is entirely freed and relieved of all covenants and obligations of Lessor hereunder and it will be deemed and construed without further agreement between the parties or between the parties and the purchaser of the premises, that such purchaser has assumed and agreed to carry out all covenants and obligations of Lessor hereunder.

NO ABATEMENT

25. No diminution or abatement of rent or other compensation will be claimed or allowed for: (a) inconvenience or discomfort arising from the making of additions, repairs or improvements to the building or to its equipment and fixtures; (b) for any space taken to comply with any law, ordinance or order of a governmental authority having jurisdiction except as specifically provided in this Lease; or (c) Lessor's compliance in any manner whatsoever with any law, ordinance or order of a governmental authority having jurisdiction.

APPLICABLE LAW AND CONSTRUCTION

26. The law of the State of New York will govern the validity, performance and enforcement of this Lease. The invalidity or unenforceability of any provision of this Lease will not affect or impair any other provision. The submission of this document to Lessee for examination does not constitute an offer to lease, or a reservation of or option to lease, and becomes effective only upon execution and delivery thereof by Lessor and Lessee. All negotiations, considerations, representations and understandings between the parties are incorporated in this Lease. Lessor or Lessor's agents have made no representations or promises with respect to the Building or the premises except as herein expressly set forth. The headings of the several articles and sections contained herein are for convenience only and do not define, limit or construe the contents of such articles or sections. Whenever herein the singular number is used, the same will include the plural, and the neuter gender will include the masculine and feminine genders. Neither this Lease nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of change, waiver, discharge or termination is sought.

UTILITY EASEMENT(S)

27. This Lease is subject and subordinate to any utility, gas, water and electric light or telephone line easements now or hereafter granted, affecting the premises, the building or the land upon which they are located.

CORRESPONDENCE AND NOTICES

28. (a) All correspondence, calls, questions and problems of the Lessee will be directed to Lessor's Superintendent of Schools or his or her designee.

(b) All correspondence, calls, questions and problems of Lessor will be directed to Lessee's Executive Director, Linda Fischer, or her designee.

(c) All notices to be given hereunder will be in writing and delivered either by hand or by overnight mail addressed to either of the parties at the address hereinabove given or at any other subsequent mailing address they may indicate by notice. All notices to Lessor will be addressed Hauppauge Union Free School District, 495 Hoffman Lane, Hauppauge, NY 11787, Attention: Superintendent of Schools, with a copy to Lamb & Barnosky, LLP, Attention: Eugene R. Barnosky, Esq., 534 Broadhollow Road, Melville NY 11747. Any notice hereunder will be deemed received when delivered. Lessee hereby authorizes and designates the manager/director of the premises as an officer authorized to accept and receive service of process.

BINDING EFFECT OF LEASE

29. The covenants, agreements and obligations contained in this Lease will, except as herein otherwise provided, extend to bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and permitted assigns. Each covenant, agreement, obligation or other provision herein contained will be deemed and construed as a separate and independent covenant of the party bound by undertaking or making the same, not dependent on any other provision of this Lease unless otherwise expressly provided.

UNAVOIDABLE DELAYS

30. Whenever Lessor will be required by the terms of this Lease or otherwise to make any improvements or repairs, to furnish any service, to perform any construction or reconstruction or to fulfill any other obligation hereunder, and Lessor will be delayed in, or prevented from, so doing, Lessor will not be deemed to be in default and this Lease and the obligation of Lessee to pay rent hereunder and to perform all of the other covenants and agreements hereunder on the part of the Lessee to be performed will not be affected, impaired, or excused, and any time limit herein fixed for the Lessor's performance thereof will be extended if and so long as Lessor's non-performance, delay or default will be caused by reason of strike or labor troubles, accidents, any rule, order or regulation of any department, or subdivision thereof of any governmental agency, governmental pre-emption in connection with any national emergency or war, the conditions of supply and demand which have been or are affected by war or other emergency or any other cause beyond Lessor's reasonable control.

SECURITY

31. As security for the Lease, lessee has deposited with Lessor the sum of Thirty-One Thousand Eighty and 00/100 Dollars (\$31,080.00). It is agreed that in the event Lessee defaults in respect of any of the terms, provisions and conditions of this Lease, including, but not limited to, the payment of rent and additional rent, Lessor may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any rent and additional rent or any other sum as to which Lessee is in default or for any sum which Lessor may expend or may be required to expend by reason of Lessee's default in respect of any of the terms, covenants and conditions of this Lease, including but not limited to, any

damages or deficiency in the re-leasing of the premises, whether such damages or deficiency accrued before or after summary proceedings or other re-entry by Lessor. In the event that Lessee fully and faithfully complies with all of the terms, provisions, covenants and conditions of this Lease, the security will be returned to Lessee after the date fixed as the end of the Lease and after delivery of entire possession of the demised premises to the Lessor, in the condition existing as of the commencement date, reasonable wear and tear excepted. In the event of a sale of the land and Building or leasing of the Building, of which the demised premises form a part, Lessor will have the right to transfer the security to the vendee or Lessee and Lessor will thereupon be released by Lessee from all liability for the return of such security; and Lessee agrees to look to the new Lessor solely for the return of said security; and it is agreed that the provision hereof will apply to every transfer or assignment made of the security to a new Lessor. Lessee further covenants that it will not assign or encumber or attempt to assign or encumber the monies deposited herein as security and that neither Lessor nor its successors or assigns will be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

SECTION 403-a OF THE EDUCATION LAW

32. Lessor and Lessee agree and acknowledge that this Lease is made in accordance with and subject to the provisions of Section 403-a of the Education Law.

ZONING

33. The Lessee is aware of the fact that the land and buildings of which the demised premises are a part has not heretofore been required to comply with statutes, ordinances, rules and regulations of any governmental entity having land use regulatory control over the jurisdiction within which the premises are located, including, but not limited to, those of its/their Department of Buildings and Board of Zoning Appeals.

In the event that, on account of Lessee's use, the said land and/or Building do become subject to the authority of any governmental entity having land use regulatory control over the jurisdiction within which the premises are located, the Lessee agrees to pay the costs incurred, or to be incurred, in order to comply with or oppose the compliance with, the above. Such costs will include, but are not limited to, filing fees, transcript charges, expert witness fees and expenses, and legal fees.

Lessee agrees to aid, assist and fully cooperate with Lessor in connection with the above.

Lessor may elect, in its sole discretion, to oppose the compliance with all or part of the requirements of any governmental entity having land use regulatory control over the jurisdiction within which the premises are located. Lessee will, however, be liable for the costs, whether the Lessor is successful or not. Lessee will, upon demand, deposit with Lessor's attorneys the estimated costs. After all costs have been incurred Lessee will be entitled to return of its share of any excess deposit. In the event, however, that Lessor will elect not to oppose compliance, Lessee may, at its sole cost and expense, oppose compliance, subject to approval of Lessee's counsel by the Lessor (which will not be unreasonably withheld).

Lessor agrees to aid, assist and fully cooperate with Lessee in connection with the foregoing. Any opposition will be deemed made on behalf of both Lessor and Lessee.

In the event of a final order of a court of competent jurisdiction, prohibiting or substantially limiting Lessee's use of the premises, upon vacating same this Lease will be deemed terminated.

MISCELLANEOUS

34. (a) The Lessor will have the right to designate the area(s) to be used for parking of the Lessee and the Lessee, its members, invitees, employees, staff and/or agents will park their vehicles in the area so designated. Subject to the foregoing, Lessee, its members, students, customers, invitees and employees will have the right in common with the Lessor and other lessees of Lessor, their staff, students, customers, employees and invitees to use the parking spaces/areas other than those allocated herein to the Lessee.

(b) Lessee will not permit the parking of any vehicle on the streets and roadways adjoining or surrounding the Building and Lessee will require its employees, customers, invitees, Lessees and visitors to park only in those parking areas serving the premises and as maybe designated from time to time by the Lessor for use by Lessee. The parking area will not be used for storage, nor will trailers or vans remain thereon other than for loading and unloading.

(c) All of the above automobile parking areas, the driveways, entrances and exits thereto, and other facilities furnished by Lessor for the general use, in common, of Lessor and lessees, their officers, agents, employees, staff, students and customers, will at all times be subject to the exclusive control and management of Lessor, and Lessor will have the right from time to time to establish, modify and enforce reasonable rules and regulations with respect to all facilities and areas mentioned in this Article. Lessor will have the right, but will not be obligated: to construct, maintain and operate lighting facilities on all said area and improvements; to police the same; from time to time to change the area, level, location and arrangement of parking areas and other facilities hereinabove referred to; to restrict parking by lessees, their officers, agents, staff, students and employees to designated parking areas; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Lessor's counsel, be legally sufficient to prevent a dedication thereof or the accrual of any rights to any person or the public therein; to close temporarily all or any portion of the parking areas or facilities to discourage unauthorized parking; and to do and perform such other acts in and to said areas and improvements as in the use of good judgment, the Lessor will determine to be advisable with a view to the improvement of the convenience and use thereby of Lessor, lessees, their officers, agents, staff, students, employees and customers. Lessor will operate and maintain the common facilities referred to above in such manner as Lessor, in its sole discretion, will determine from time to time. Without limiting the scope of such discretion, Lessor will have the full right and authority to employ all personnel and to make all rules and regulations pertaining to and necessary for the proper operation and maintenance of the common areas and facilities.

(d) Pickup drop off point will be established at Lessor's discretion.

(e) Lessee will obtain, at Lessee's expense, all governmental licenses, approvals, certificates and permission required for the operation of its business at the demised premises; and Lessee will supply Lessor with copies of such current governmental licenses, approvals, certificates and permission.

(f) This instrument will not be a lien against said premises in respect to any mortgages that are now on or that hereafter may be placed against said premises, and that the recording of such mortgage or mortgages will have preference and precedence and be superior and prior in lien of this Lease, irrespective of the date of recording and the Lessee agrees to execute without cost, any such instrument which may be deemed necessary or desirable to further effect the subordination of this Lease to any such mortgage or mortgages, and a refusal to execute such instruments will entitle the Lessor, or the Lessor's assigns and legal representatives to the option of canceling this Lease without incurring any expense or damage and the term hereby granted is expressly limited accordingly.

(g) That the Lessee will not nor will the Lessee permit sub-lessees or other persons to do anything in said premises, or bring anything into said premises, or to be kept therein, which will in any way increase the rate of fire insurance on or premiums for other insurance in connection with said demised premises, or its use nor use the demised premises or any part thereof, nor suffer or permit their use for any business or purpose which would cause an increase in the rate of fire insurance on said building and the Lessee agrees to pay on demand any such increase.

(h) The failure of the Lessor to insist upon a strict performance of any of the terms, conditions and covenants herein, will not be deemed a waiver of any rights or remedies that the Lessor may have, and will not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained. This instrument may not be changed, modified, discharged or terminated orally.

(i) Notwithstanding any other provision of this Lease, Lessee will pay Lessor for each calendar day Lessee retains possession of the demised premises or any part thereof after termination of this Lease, by lapse of time or otherwise, an amount which is three (3) times the amount of the rent for a day (computed on a year of 360 days) based on the rent applicable to the period in which such possession occurs and Lessee will also pay all damages, consequential as well as direct, sustained by Lessor by reason of such retention. Nothing in this paragraph contained, however will be construed or operate as a waiver of Lessor's right of re-entry or any other right of Lessor.

(j) Lessee hereby waives the notice provision for non-payment of rent contained in New York Real Property Law 235-e(d).

(k) Lessor in its sole discretion may establish, reasonable rules, regulations and/or procedures necessary to comply with any law, ordinance or order of

any governmental authority having jurisdiction, and the failure of Lessee to abide by such rules, regulations and/or procedures will be deemed a default hereunder.

(l) The impairment of Lessee's use of the demised premises, by reason of the COVID-19 pandemic, other public health emergencies, or laws, ordinances or orders of governmental authorities having jurisdiction will not excuse Lessee's performance hereunder.

WITNESS WHEREOF, the parties have caused this Lease to be executed this _____ day of _____ 2023.

**BOARD OF EDUCATION OF THE
HAUPPAUGE UNION FREE SCHOOL
DISTRICT**

By: _____
David M. Barshay, Esq.
President

THE OPPORTUNITY PRE-SCHOOL, INC.

By: *Linda Fischer*
Linda Fischer, Executive Director



HAUPPAUGE PUBLIC SCHOOLS

*Office of the Assistant Superintendent
Curriculum, Instruction and Technology*

TO: Catherine Freeman (Interim)
FROM: Tim McCarthy
SUBJECT: Contract Between the Hauppauge UFSD and GoGuardian
DATE: 7/20/2023

The following contract is being submitted for your review and approval:

Provider: GoGuardian
Term: 7/1/2023 - 6/30/2024
Service: Software
Fee: \$22,304.25

PLEASE NOTE: This agreement is meant to satisfy the NYS Ed-Law 2d requirement for the period of 7/1/2023 - 6/30/2024. This is not a purchase agreement for that period of time. Purchases of this service (or product) will be decided upon on a yearly basis.


7/20/2023

TM:ts

NEW YORK EDUCATION LAW 2-D RIDER

TO CONTRACTOR PRODUCTS TERMS OF SERVICE AND END USER LICENSE AGREEMENT

This New York Education Law 2-D Rider ("**Rider**") to Liminex Products Terms of Service and End User License Agreement (currently available at <https://www.goguardian.com/policies/eula>) and incorporated Product Privacy Policy (currently available at <https://www.goguardian.com/policies/product-privacy>) ("**Terms**") by and between Liminex, Inc. doing business as GoGuardian ("**GoGuardian**"), and acting on behalf of itself and its Affiliates, including Pear Deck, Inc. ("**Pear Deck**") and Snapwiz Inc. dba Edulastic ("**Edulastic**", and together with GoGuardian and Pear Deck, "**Contractor**") and Hauppauge Union Free School District ("**School**") (together, the "**Parties**"). As of the latest date on the signature line below ("**Effective Date**") and continuing until June 30, 2024, the Parties agree as follows:

1. **Definitions.** Capitalized terms shall have the meanings ascribed to such terms in the Terms, unless otherwise explicitly defined below:
 - a. "**Commercial or Marketing Purpose**" means the sale of Student Data; or its use or disclosure for purposes of receiving remuneration, whether directly or indirectly; the use of Student Data for advertising purposes, or to develop, improve or market products or services to students.
 - b. "**Encryption**" means methods of rendering Personally Identifiable Information unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified or permitted by the Secretary of the United States department of health and human services in guidance issued under Section 13402(H)(2) of Public Law 111-5.
 - c. "**New York Education Law Section 2-d**" means Section 2-d of Article I of Title I of New York Consolidated Laws, Education Law, together with its implementing regulations in Part 121 of the Regulations of the New York Commissioner of Education.
 - d. "**Personally Identifiable Information**", as applied to Student Data, means Personally Identifiable Information as defined in section 99.3 of Title 34 of the Code of 3 Federal Regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C 1232g ("**FERPA**"), and as applied to Teacher and Principal Data, means Personally Identifiable Information as such term is defined in Education Law §3012-c(10). Personally Identifiable Information does not include Deidentified Information.
 - e. "**Teacher or Principal Data**" means Personally Identifiable Information from the records of an educational agency relating to the annual professional performance reviews of classroom teachers or principals that is confidential and not subject to release under the provisions of Education Law §§3012-c and 3012-d.
 - f. "**Student Data**" means Personally Identifiable Information from the student records of an educational agency.
2. **Data Collection Transparency and Restrictions.**
 - a. Contractor acknowledges and agrees that under New York Education Law Section 2-d:
 - i. Personally Identifiable Information cannot be sold, or used or disclosed for any Commercial or Marketing Purpose;

- ii. School is responsible for working with the State of New York to ensure that a complete list of all student data elements collected by the State is available for public review through either a website or in writing;
 - iii. Parents have the right to inspect and review the complete contents of their child's education record in compliance with New York Education Law Section 2-d; and
 - iv. School is responsible for addressing any parent complaints about providing a phone number, email address and mailing address for such complaints.
- b. Contractor's Product Privacy Policy sets forth, among other things (i) how Contractor protects Personal Student Information (as defined in the Terms) and other Personally Identifiable Information; (ii) the list of Personal Student Information that Contractor collects in connection with its services; and (iii) the process for a parent to request their child's education records from Contractor;

3. Data Handling Restrictions and Requirements.

- a. Contractor acknowledges that, in compliance with New York Education Law Section 2-d, it shall:
- i. adopt technologies, safeguards and practices that align with the NIST Cybersecurity Framework;
 - ii. comply with School's data security and privacy policy;
 - iii. limit internal access to Personally Identifiable Information to only those employees or sub-contractors that need access to provide the Contractor services;
 - iv. not use the Personally Identifiable Information for any purpose not explicitly authorized in the Terms;
 - v. not disclose any Personally Identifiable Information to any other party without the prior written consent of the parent or eligible student: (i) except for authorized representatives of Contractor, such as a subcontractor or assignee to the extent they are carrying out obligations in connection with Contractor services and in compliance with the Terms, this Rider, and applicable state and federal law; or (ii) unless required by statute or court order and Contractor provides a notice of disclosure to School no later than the time the information is disclosed, unless providing notice of disclosure is expressly prohibited by the statute or court order;
 - vi. maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of Personally Identifiable Information in its custody;
 - vii. use Encryption to protect Personally Identifiable Information in its custody while in motion or at rest;
 - viii. not sell Personally Identifiable Information nor use or disclose it for any Commercial or Marketing purpose or facilitate its use or disclosure by any other party for any Commercial or Marketing purpose or permit another party to do so;
 - ix. where it engages a subcontractor to perform its contractual obligations, the data protection obligations imposed on Contractor by state and federal law and contract shall apply to the subcontractor; and

- x. cooperate with educational agencies and law enforcement to protect the integrity of investigations into the breach or unauthorized release of personally identifiable information.

4. Bill of Rights for Data Privacy and Security.

- a. Contractor acknowledges that, pursuant to New York Education Law Section 2-d, (i) School must publish on your website a parents bill of rights for data privacy and security that includes the supplemental information described in Section 4(b) ("**Supplemental Information**") concerning Contractor ("**Bill of Rights**"), and (ii) Contractor's contract with School must include a copy of such Bill of Rights.
- b. Supplemental Information for a third party contractor includes:
 - i. the exclusive purposes for which the Student Data or Teacher or Principal data will be used by the third-party contractor, as defined in the contract;
 - ii. how the third-party contractor will ensure that the subcontractors, or other authorized persons or entities to whom the third-party contractor will disclose the Student Data or Teacher or Principal Data, if any, will abide by all applicable data protection and security requirements, including but not limited to those outlined in applicable state and federal laws and regulations (e.g., FERPA; New York Education Law Section 2-d);
 - iii. the duration of the contract, including the contract's expiration date and a description of what will happen to the Student Data or Teacher or Principal Data upon expiration of the contract or other written agreement (e.g., whether, when and in what format it will be returned to the educational agency, and/or whether, when and how the data will be destroyed);
 - iv. 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;
 - v. where the Student Data or Teacher or Principal Data will be stored, described in such a manner as to protect data security, and the security protections taken to ensure such data will be protected and data security and privacy risks mitigated; and
 - vi. address how the data will be protected using Encryption while in motion and at rest.
- b. In compliance with New York Education Law Section 2-d, Contractor's Supplemental Information is set forth in Schedule 1 to this Rider.

The bill of rights and supplemental information may be redacted to the extent necessary to safeguard the privacy and/or security of the educational agency's data and/or technology infrastructure.

- c. A copy of the Bill of Rights is attached hereto as Schedule 2 to this Rider.

5. Data Security and Privacy Plan.

- a. Contractor currently has and shall maintain and adhere to a data security and privacy plan that, at a minimum:

- i. outlines how Contractor implements applicable state, federal, and local data security and privacy requirements during the Term, consistent with School's data security and privacy policy;
- ii. specifies the administrative, operational and technical safeguards and practices it has in place to protect Personally Identifiable Information it receives under the Terms;
- iii. demonstrates that it complies with the requirements in New York Education Law Section 2-d to provide its Supplemental Information for the Bill Rights;
- iv. specifies how its officers or employees and its assignees who have access to Student Data, or Teacher or Principal Data under the Terms receive or will receive training on the federal and state laws governing confidentiality of such data prior to receiving access;
- v. specifies whether it will utilize sub-contractors to perform the Contractor Services, and, if so, how it will manage those relationships and contracts to ensure Personally Identifiable Information is protected;
- vi. specifies how it will manage data security and privacy incidents that implicate Personally Identifiable Information, including specifying any plans to identify breaches and unauthorized disclosures, and to promptly notify School; and
- vii. describes whether, how and when data will be returned to School, transitioned to a successor contractor, at School's option and direction, deleted or destroyed by it when the Terms and this Rider are terminated or expire (such data security and privacy plan, the "**Contractor Data Security Plan**").

b. School acknowledges and agrees that it accepts the Contractor Data Security Plan.

6. Reports and Notifications of Breach and Unauthorized Release.

Contractor acknowledges and agrees that, pursuant to New York Education Law Section 2-d, it must (a) promptly notify School of any breach or unauthorized release of Personally Identifiable Information in the most expedient way possible and without unreasonable delay but no more than seven calendar days after the discovery of such breach and otherwise in accordance with New York Education Law Section 2-d; (b) must cooperate with School and law enforcement to protect the integrity of investigations into the such breach or unauthorized release of Personally Identifiable Information; and (c) pay for or promptly reimburse School for the full cost of notifying a parent, eligible student, teacher, or principal of an unauthorized release of Personally Identifiable Information attributed to Contractor.

To the extent that the provisions of this Rider are inconsistent with the Terms, the provisions of this Rider will control. To the extent that any provision of the Terms conflicts with or violates New York law, that provision will be null and void and without effect to the extent of the conflict.

For avoidance of doubt, this Rider is solely between the Parties and shall have no effect upon the Terms for any other individual or entity subject to such Terms. All other provisions in the Terms remain in full force and effect. If any provision of this Rider is invalid or unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. To the extent that the terms of this Rider conflict with the Bill of Rights, the terms of this

Rider shall control. Any violation or breach of this Rider shall, except as otherwise prohibited by law, be subject to all disclaimers and limitations on liability as set forth in the Terms.

[Remainder of Page Left Intentionally Blank; Signature Page Follows]

Signed and Agreed:

**For and on behalf of Hauppauge Union Free
School District ("School")**

Signature: _____

Name: _____

Dated: _____

**For and on behalf of Liminex, Inc. dba
GoGuardian, and acting on behalf of itself and
its Affiliates ("Contractor")**

Signature: DocuSigned By: Caryn Wetmore
7786223F0106463

Name: Caryn Wetmore

Dated: 7/19/2023



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TERRI SCHMOGER,

Thank you for considering CDW•G for your technology needs. The details of your quote are below. **If you are an eProcurement or single sign on customer, please log into your system to access the CDW site.** You can search for your quote to retrieve and transfer back into your system for processing.

For all other customers, click below to convert your quote to an order.

Convert Quote to Order

ACCOUNT MANAGER NOTES: **With Beacon

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
NKSJ772	6/12/2023	GOGUARDIAN RENEWAL	1954139	\$22,304.25

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
GOGUARDIAN SS BUNDL 1YR T1 Mfg. Part#: GG-SS1Y-001500 **with Beacon Electronic distribution - NO MEDIA Contract: ESC R4 Omnia Total Cloud Solutions (R220801)	1725	6955967	\$12.93	\$22,304.25

These services are considered Third Party Services, and this purchase is subject to CDW's Third Party Cloud Services Terms and Conditions, unless you have a written agreement with CDW covering your purchase of products and services, in which case this purchase is subject to such other written agreement.

The third-party Service Provider will provide these services directly to you pursuant to the Service Provider's standard terms and conditions or such other terms as agreed upon directly between you and the Service Provider. The Service Provider, not CDW, will be responsible to you for delivery and performance of these services. Except as otherwise set forth in the Service Provider's agreement, these services are non-cancellable, and all fees are non-refundable.

SUBTOTAL	\$22,304.25
SHIPPING	\$0.00
SALES TAX	\$0.00
GRAND TOTAL	\$22,304.25

PURCHASER BILLING INFO

Billing Address:
HAUPPAUGE UNION FREE SCHL DST
ACCTS PAYABLE
495 HOFFMAN LN
HAUPPAUGE, NY 11788-3101
Phone: (631) 761-8213
Payment Terms: NET 30 Days-Govt/Ed

DELIVER TO

Shipping Address:
HAUPPAUGE UNION FREE SCHL DST
ELLEN KINBACHER
495 HOFFMAN LN
CENTRAL STORAGE-DO
HAUPPAUGE, NY 11788-3101
Shipping Method: ELECTRONIC DISTRIBUTION

Please remit payments to:

CDW Government
75 Remittance Drive
Suite 1515
Chicago, IL 60675-1515



Sales Contact Info

Andrew Magliola | (866) 873-9864 | andrmag@cdw.com

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Schedule 1 Supplemental Information

Supplemental Information for a third party contractor includes:

- **the exclusive purposes for which the Student Data or Teacher or Principal data will be used by the third-party contractor, as defined in the contract;**

Please see Product Privacy Policy listing the exclusive purposes for which the Student Data (and, to the extent that Contractor maintains any Teacher or Principal Data to the extent that Contractor maintains such data) will be used by Contractor).

- **how the third-party contractor will ensure that the subcontractors, or other authorized persons or entities to whom the third-party contractor will disclose the Student Data or Teacher or Principal Data, if any, will abide by all applicable data protection and security requirements, including but not limited to those outlined in applicable state and federal laws and regulations (e.g., FERPA; New York Education Law Section 2-d);**

Please see Contractor's Data Privacy and Security Plan, incorporated herein as Schedule 3, for a description of how Contractor will help ensure that the subcontractors, or other authorized persons or entities to which Contractor will disclose Student Data (and, to the extent that Contractor maintains any Teacher or Principal Data, any Teacher or Principal Data).

- **the duration of the contract, including the contract's expiration date and a description of what will happen to the Student Data or Teacher or Principal Data upon expiration of the contract or other written agreement (e.g., whether, when and in what format it will be returned to the educational agency, and/or whether, when and how the data will be destroyed);**

The duration of the contract between School and Contractor is found on the applicable Order Form between Contractor and School. Please see Product Privacy Policy for a description of what will happen to the Student Data (and, to the extent that Contractor maintains any Teacher or Principal Data, any Teacher or Principal Data), unless otherwise agreed to in writing between School and Contractor.

- **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;**

Please see Product Privacy Policy listing for how a student may challenge the accuracy of Student Data (and, to the extent that Contractor maintains any Teacher or Principal Data to the extent that Contractor maintains such data how a teacher or principal may challenge the accuracy of Teacher or Principal Data).

- **where the Student Data or Teacher or Principal Data will be stored, described in such a manner as to protect data security, and the security protections taken to ensure such data will be protected and data security and privacy risks mitigated; and**
 - Student Data (and, to the extent that Contractor maintains any Teacher or Principal Data, any Teacher or Principal Data) will be stored in industry-leading databases.
- **address how the data will be protected using Encryption while in motion and at rest.**
 - Student Data (and, to the extent that Contractor maintains any Teacher or Principal Data, any Teacher or Principal Data) will be protected using encryption in motion via SSL and at rest.

Schedule 2
Bill of Rights

[School to insert its Parent Bill of Rights]

**HAUPPAUGE UNION FREE SCHOOL DISTRICT
PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY
Summary of Rights and Information for Parents and Students**

The Hauppauge Union Free School District is committed to ensuring the privacy of student personally identifiable information and recognizes that parents (including legal guardians or persons in parental relationships) and eligible students (students 18 years of age and older) are entitled to certain rights with regard to a student's personally identifiable information. 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 ("PII") cannot be sold or released for any commercial purposes. PII, as defined by Education Law § 2-d and the Family Educational Rights and Privacy Act ("FERPA"), includes direct identifiers such as a student's name or identification number, parent's name, or address; and indirect identifiers such as a student's date of birth, which when linked to or combined with other information can be used to distinguish or trace a student's identity. Please see FERPA's regulations at 34 CFR § 99.3 for a more complete definition.
2. Parents and/or eligible students have the right to inspect and review the complete contents of the student's education records stored or maintained by the District. This right may not apply to parents of an eligible student.
3. State and federal laws such as New York Education Law § 2-d, the Commissioner of Education's Regulations at 8 NYCRR Part 121, FERPA, the Children's Online Privacy Protection Act, the Protection of Pupil Rights Amendment, and the Individuals with Disabilities Education Act protect the confidentiality of a student's PII.
4. 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.
5. A complete list of all student data elements collected by the State is available for public review at www.nysed.gov/data-privacy-security/student-data-inventory and by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.
6. Parents have the right to have complaints about possible breaches and unauthorized disclosures of PII addressed.
 - a. Complaints should be submitted to the District at: Dr. Tim McCarthy, District Data Protection Officer, Hauppauge UFSD, P.O. Box 6006, Hauppauge, New York 11788, mccarthyt@hauppauge.k12.ny.us, 631-761-8202.
 - b. Complaints may also be submitted to the New York State Education Department at: www.nysed.gov/data-privacy-security/report-improper-disclosure or by contacting

the State's Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234, privacy@nysed.gov, 518-474-0937.

7. District contracts with vendors that receive PII will address statutory and regulatory data privacy and security requirements and will include supplemental information that provides:
 - a. The exclusive purposes for which student data or teacher or principal data will be used;
 - b. How the third party contractor will ensure that the subcontractors, persons or entities that the vendor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;
 - c. When the agreement expires and what happens to student data or teacher or principal data upon expiration of the agreement;
 - d. 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
 - e. 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 how such data will be encrypted.
8. Parents and/or eligible students have the right to be notified in accordance with applicable laws and regulations if a breach or unauthorized release of PII occurs.
9. District workers who handle PII will receive annual training on applicable federal and State laws, regulations, policies and safeguards which will be in alignment with industry standards and best practices to protect PII.

CONTRACTOR CONFIDENTIAL INFORMATION

Schedule 3

Contractor's Data Privacy and Security Plan

- Contractor will implement applicable state, federal, and local data security and privacy requirements during the Term, consistent with School's data security and privacy policy.
- Contractor has administrative, operational and technical safeguards designed to protect Personally Identifiable Information that it receives during the Term, including:
 - Administrative Safeguards: Data breach response plan, change management systems, security and privacy awareness training, employee background checks
 - Operational Safeguards: Office security guards, key cards, office surveillance
 - Technical Safeguards: access controls to Personally Identifiable Information, encryption in motion between endpoints via SSL and at rest of Personally Identifiable Information, authentication of desktops and laptops, penetration testing
- Contractor provided its Supplemental Information for the Bill of Rights in Schedule 1. Please see Schedule 1 for Supplemental Information for the Bill of Rights.
- Contractor provides training to employees who access Student Data (and, to the extent that Contractor maintains any Teacher or Principal Data, any Teacher or Principal Data) under the Terms on the federal and state laws governing confidentiality of such data in the onboarding process for new employees and on an annual basis for existing employees.
- Contractor will use subcontractors to help operate some of the Services such as a database provider. Contractor will take steps designed to ensure that the subcontractors, or other authorized persons or entities to which Contractor will disclose Student Data (and, to the extent that Contractor maintains any such data, any Teacher or Principal Data) will abide by data security and privacy requirements, including by:
 - Conducting diligence and evaluating the security practices of subcontractors that can access Student Data (and, to the extent that Contractor maintains any such data, any Teacher or Principal Data)
 - Requesting verification of compliance with security and privacy standards aligned with state and federal law
 - Evaluating the contractual safeguards of subcontractors of Student Data (and, to the extent that Contractor maintains any such data, any Teacher or Principal Data)

- Contractor will manage data security and privacy incidents that implicate Personally Identifiable Information by implementing a data incident response policy, conducting penetration tests to help prevent breaches, and by complying with the breach provisions of Education Law 2-d, including the breach notification requirements described in Section 6 of this Rider.
- For information about whether, how and when Student Data (and, to the extent that Contractor maintains any such data, any Teacher or Principal data) will be transitioned to a successor contractor or deleted and destroyed when the Terms and the Rider are terminated or expire, please refer to Contractor's Product Privacy Policy (available at <https://www.goguardian.com/product-privacy/>)

END OF CONTRACTOR CONFIDENTIAL INFORMATION



HAUPPAUGE PUBLIC SCHOOLS

*Office of the Assistant Superintendent
Curriculum, Instruction and Technology*

TO: Catherine Freeman (Interim)
FROM: Tim McCarthy
SUBJECT: Contract Between the Hauppauge UFSD and Incident IQ
DATE: 7/21/2023

The following contract is being submitted for your review and approval:

Provider: Incident IQ
Term: 7/1/2023 - 8/31/2024
Service: Software
Fee: \$21,226.62

PLEASE NOTE: This agreement is meant to satisfy the NYS Ed-Law 2d requirement for the period of 7/1/2023 - 6/30/8/31/2024 This is not a purchase agreement for that period of time. Purchases of this service (or product) will be decided upon on a yearly basis.


9/13/2022

TM:ts

**AMENDMENT TO AGREEMENTS
BETWEEN
HAUPPAUGE UNION FREE SCHOOL DISTRICT
AND
INCIDENT IQ, LLC**

This Amendment (“the Amendment”) to (1) the Agreement between Hauppauge Union Free School District and Incident IQ, LLC with an effective date of July 1, 2022 (“the Service Agreement”) and (2) the associated Data Privacy Agreement (“DPA”), is made and entered into as of July 1, 2023. The Hauppauge Union Free School District (“the District”) and Incident IQ, LLC (“the Contractor”) (“the Contractor” and “the District” are collectively referred to herein as the “Parties” and individually as a “Party.”

WHEREAS, the Parties entered into the Service Agreement and the DPA (collectively “the Agreements”); and

WHEREAS, the Parties wish to amend the Agreements as hereinafter provided, and hereby agree that to the extent the provisions of this Amendment are inconsistent with the attached Agreements, the provisions of this Amendment will control.

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 Amendment as if fully set forth therein and hereby agree as follows:

1. The term of the Service Agreement is extended through ~~June 30~~, August 31, 2024, unless the Service Agreement is terminated earlier pursuant to the terms of the Service Agreement.

2. Schedule A to the Service Agreement is replaced with the revised Schedule A annexed to this Amendment.

3. The insurance provisions set forth in Paragraph 10 of the Service Agreement are amended as follows:

- a. Policies naming the District as an additional insured must state that the Contractor’s coverage is primary and non-contributory coverage for the District, its Board, employees and volunteers with a waiver of subrogation in favor of the District for all coverages including Workers’ Compensation.
- b. The Contractor will obtain and keep in full force and effect during the term of the Service Agreement, at the Contractor’s sole cost and expense, Commercial General Liability with the following limits:
 - i. \$1,000,000 per occurrence/\$2,000,000 aggregate
 - ii. \$2,000,000 products/completed operations
 - iii. \$1,000,000 personal and advertising injury
 - iv. \$100,000 fire damage
 - v. \$10,000 medical expense

- vi. The general aggregate must apply on a per-project basis (where applicable).

Other than set forth in this paragraph 3 of the Amendment, Paragraph 10 of the Service Agreement remains unmodified and in full force and effect.

4. Exhibit B to the DPA is replaced with the revised Exhibit B annexed to this Amendment as Exhibit B. The Contractor must sign the revised Exhibit B.

5. The Contractor hereby submits the updated "Data Security and Privacy Plan" to the replace the Contractor's Data Security and Privacy Plan previously attached to the DPA as Exhibit C.

6. This Amendment may be in executed in one or more counterparts, all of which will be considered one and the same agreement. The Amendment may be executed by facsimile or PDF signature, each of which will constitute an original for all purposes.

7. Other than as herein specifically set forth in this Amendment, the Agreements remain unmodified and in full force and effect.

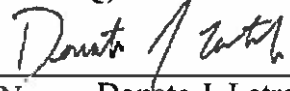
IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the latter date that appears below.

**HAUPPAUGE UNION FREE
SCHOOL DISTRICT**

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

Date: _____

INCIDENT IQ, LLC

By: 
Name: Donato J. Latrofa
Title: General Counsel

Date: 7-20-23

SCHEDULE A



incidentIQ.

Created Date 7/14/2023

Expiration Date 8/31/2023

Quote Number 34739

Contract End Date 8/31/2024

Contact Name Terri Schmoger

Ship To Name Hauppauge Union Free School District

Ship To PO BOX 6006
HAUPPAUGE, NY 11788
United States

Product Code	Product	Product Description	Sales Price	Quantity
IIQ-6600	iiQ Events	Incident IQ Events (add-on), Subscription	\$3,090.72	1.00
IIQ-6300	iiQ Facilities	Incident IQ Facilities product (add-on), Subscription	\$4,327.01	1.00
IIQ-9000	iiQ Launchpad On-boarding Services	Implementation of Incident IQ Cloud Services, one-time fee	\$2,287.50	1.00
IIQ-6100	iiQ Ticketing	Incident IQ Ticketing product (add-on), Subscription	\$4,327.01	1.00

Notes

With signed (MSA/Amendment), Hauppauge UFSD will have access to begin implementation, and receive a no-charge period from 7/17/23 to 10/15/23.

All Incident IQ products and services are purchased and delivered pursuant to the Incident IQ Cloud Services Master Subscription Agreement, as found at <https://www.incidentiq.com/legal/master-services-agreement>, along with any applicable Supplements (available at <https://www.incidentiq.com/legal>). All of the aforementioned are incorporated into this ordering document by reference to the maximum extent permitted by local, state, and federal laws and regulations. For any legal questions, please contact us at legal@incidentiq.com.



Quote Name Incident IQ Renewal for HAUPPAUGE UNION
FREE SCHOOL DISTRICT (NY) (2023-2024)

Company Address 750 Glenwood Ave SE Suite 320
Atlanta, GA 30316
US

Contract Start Date 9/1/2023

Contract End Date 8/31/2024

Created Date 5/5/2023

Expiration Date 9/1/2023

Quote Number 33132

Contact Name Joseph Tarabocchia

Bill To Name Hauppauge Union Free School District

Bill To PO BOX 6006
HAUPPAUGE, NY 11788
United States

Ship To Name Hauppauge Union Free School District

Ship To PO BOX 6006
HAUPPAUGE, NY 11788
United States

Product Code	Product	Product Description	Sales Price	Quantity
IIQ-2000	iiQ Platform with Assets	Incident IQ Platform with iiQ Assets core product, Subscription	\$7,194.38	1.00

Total Price \$7,194.38

Notes

Current subscription ends 8/31/2023. Above quoted license begins 9/1/2023 and ends 8/31/2024.

EXHIBIT B

EXHIBIT B: BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

SUPPLEMENTAL INFORMATION FOR CONTRACTS THAT UTILIZE PERSONALLY IDENTIFIABLE INFORMATION

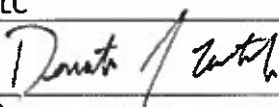
Pursuant to Education Law § 2-d and 8 NYCRR § 121.3, the District is required to post information to its website about its contracts with third-party contractors ("Service Agreements") that will receive Personally Identifiable Information ("PII") from Student Data or Teacher or Principal APPR Data.

INCIDENT IQ, LLC	
Term of Service Agreement	Agreement Start Date: July 1, 2022 Agreement End Date: June 30 , August 31, 2024
Description of the purpose(s) for which Contractor will receive/access/use PII	PII received by the Contractor will be received, accessed and used only to perform the Contractor's Services pursuant to the Service Agreement with the District. List Purposes: Provide the services set forth in Schedule a to the Service Agreement.
Type of PII that Contractor will receive/access	Check all that apply: <input checked="" type="checkbox"/> Student PII <input type="checkbox"/> Teacher or Principal APPR Data
Subcontractor Written Agreement Requirement	The Contractor will only share PII with entities or persons authorized by the Service Agreement. The Contractor will not utilize Subcontractors without written contracts that require the Subcontractors to adhere to, at a minimum, materially similar data protection obligations imposed on the contractor by state and federal laws and regulations, and the Service Agreement. Check applicable option. <input checked="" type="checkbox"/> Contractor will not utilize Subcontractors. <input type="checkbox"/> Contractor will utilize Subcontractors.
Data Transition and Secure Destruction	Upon expiration or termination of the Service Agreement, the Contractor will, as directed by the District in writing: <ul style="list-style-type: none">Securely transfer data to District, or a successor contractor at the District's option and written discretion, in a format agreed to by the parties.Securely delete and destroy data by taking actions

	that render data written on physical (e.g., hard copy) or electronic media unrecoverable by both ordinary and extraordinary means.
Challenges to Data Accuracy	Parents, students, teachers or principals who seek to challenge the accuracy of PII will do so by contacting the District. If a correction to data is deemed necessary, the District will notify the Contractor. The Contractor agrees to facilitate such corrections within 21 calendar days of receiving the District's written request.
Secure Storage and Data Security	<p>The Contractor will store and process District Data in compliance with § 2-d(5) and applicable regulations of the Commissioner of Education, 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 Contractor 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 Service Agreement. The Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.</p> <p>Please describe where PII will be stored and the security protections taken to ensure PII will be protected and data security and privacy risks mitigated in a manner that does not compromise the security of the data:</p> <p>(a) Storage of Electronic Data: Using a cloud or infrastructure owned and hosted by a third party.</p> <p>(b) Storage of Non-Electronic Data: N/A</p> <p>(c) Personnel/Workforce Security Measures: See attached Data Privacy Plan.</p> <p>(d) Account Management and Access Control: Limited to authorized individuals with a need to know.</p> <p>(e) Physical Security Measures. See attached Data Privacy Plan.</p> <p>(f) Other Security Measures: See attached Data Privacy Plan.</p>
Encryption	Data will be encrypted while in motion and at rest.

INCIDENT IQ, LLC

By: (Signature)



(Printed Name)

Donato J. Latrofa

(Title)	General Counsel
Date:	7-20-23

Incident IQ
DATA PRIVACY AND SECURITY PLAN

Incident IQ, LLC (“Incident IQ, We, Us, or Our”), as a covered third-party contractor under NYS Education Law 2-d shall undertake all of the following data privacy, security, and protection measures, in addition to the requirements already contained in the Incident IQ Cloud Services Master Subscription Agreement (available at <https://www.incidentiq.com/legal>):

1. Data Collection & Use:

- a. Incident IQ shall only collect, process and store such Protected Data, to include any cookies, to which we have a legitimate educational interest and as is necessary to provide the cloud services.
- b. Under no circumstances will Incident IQ use Protected Data to market or advertise to students or their family members or legal guardians, or otherwise use Protected Data to inform, influence or enable marketing, advertising or other commercial efforts by a third party directed at students, their family members, or legal guardians.
- c. We shall not change how Protected Data are collected maintained, used or disclosed under the terms of the Agreement, without advance notice to and prior written consent from District.
- d. We will never sell Protected Data that we acquire through District use of the Cloud Services, except as part of a corporate purchase, merger or other type of acquisition. In such a case, any successor entity shall be contractually obligated to comply with the terms of this Agreement related to the treatment of Protected Data, as well as all other applicable legal requirements governing the use, disclosure, and security of the previously acquired Protected Data.

2. Data Portability: Incident IQ shall ensure the data portability of all District data.

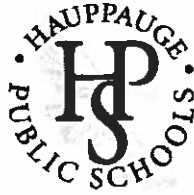
- a. Upon notice of a request from District for a copy of certain Protected Data in Our possession (e.g., to support the District’s response to a properly constituted request for Protected Data from a parent, guardian or student), we will ensure that: (i) A complete and readable digital copy of the requested Protected Data in Incident IQ’s possession is delivered to District within 30 days of our receipt of District’s request; (ii) Upon delivery of the copy, District must provide notice to Incident IQ of District’s receipt and acceptance of any such requested Protected Data;
- b. Upon notice of a request from District that certain Protected Data be deleted, We will permanently destroy (i.e., undertake a non-recoverable deletion process in accordance with Department of Defense standard 5220.22-M) all copies of the Protected Data identified for deletion by District held by Us or any of Our agents, subcontractors or affiliates. Within 30 days of District notice, we will deliver a written confirmation to District certifying that the permanent destruction of the requested Protected Data has been accomplished. Upon delivery of such written confirmation of deletion, District must provide notice to Us of District receipt and understanding of said notice confirming deletion made at District request.
- c. We shall destroy all Protected Data residing in District’s instance of the Cloud Services, using the methods described in paragraph 2(b) above, following expiration of a 60-day period after termination of this Agreement, unless District requests that We return such information to District instead.

3. Data Security:

- a. We will operate the Cloud Services and collect, process and store Protected Data in accordance with NIST data security standards and current industry best practices, and maintain all technologies, policies, procedures and practices necessary to secure and protect the confidentiality and integrity of Protected Data, and prevent unauthorized access, disclosure and use.
- b. All information is stored within databases hosted and secured within the Microsoft Azure Cloud. The Azure cloud is secured with actively monitored network firewalls, intrusion detection systems, application firewalls, and IP-route protection. Additionally, any information designated as Protected Data is encrypted within the database.
- c. No data shall be stored outside the United States; all data are stored in the Microsoft Azure data center, region East US (Virginia), East US 2 (Virginia), and/or West US (California).
- d. Any data designated as Protected Data which include passwords, is encrypted within the database using combinations of one-way and two-way encryption algorithms (such as SHA256) with Salt strings.
- e. Information is multi-tenanted and stored within the same cloud systems; however, all information is partitioned by a School District ID (i.e., SiteId) and the Data Access Layers forces all data to be filtered by a specific School District.
- f. Physical servers are physically secured in the Microsoft Azure data centers, regions East US (Virginia), East US 2 (Virginia), and West US (California).
- g. Data in transit are SSL protected, as well as Protected Data are always encrypted.
- h. Only Incident IQ Senior Technical Team members have direct access to product data. All personnel with access to Incident IQ systems and data are vetted via backgrounds checks and receive annual and update training on all relevant policies and procedures.
- i. No software functions are subcontracted to other vendors apart from the hosting/storage services provided by Microsoft, as described above.
- j. Customer support representatives accordingly confirm caller identity against a District's list of administrator-users. Account creation and deletion is controlled by the District as user profiles are established through syncing with the client's identity management provider (e.g., Microsoft ADFS, Google SSO, local Active Directory, etc.). Accordingly, account creation/deletion is managed by the District through their ordinary identity management policies and procedures. Also, permissions modification of any given user may be managed by the clients' administrator-level users through tools in their admin console. If assistance were required in this process admin-users would authenticate with customer support representatives as described above.

4. Network Operations Center Management and Security:

- a. Incident IQ shall perform regular penetration testing, vulnerability management and intrusion prevention testing.
- b. All network devices shall be located in secure facilities under controlled circumstances (i.e., ID cards and entry logs) at the Microsoft Azure data centers, regions East US (Virginia), East US 2 (Virginia), and West (California).
- c. Backups shall be performed daily (to other US-based Azure Data Centers), as well as backups made to separate secure, off-site facility.
- d. Backups shall be encrypted and stored securely with access limited to administrators with restoration encryption keys.
- e. All software vulnerabilities shall be patched routinely or automatically in accordance with the following parameters: all critical and High vulnerabilities shall be patched automatically. Medium vulnerabilities shall be patched monthly during planned maintenance windows. Low vulnerabilities shall be evaluated and if deemed necessary, shall be patched during the planned monthly maintenance window.
- f. Incident IQ shall respond to any incidents IAW its Incident Response Plan.



To: Catherine Freeman, Interim Assistant Sup. for Business & Operations
From: Joanne Sharrott, Interim Purchasing Agent
Re: RFP for Driver Education Automobile Instructors
Date: July 20, 2023

The Purchasing Office solicited a Request for Proposal for Driver Education Automobile Instructors, to be offered to the District's high school students. A proposal packet was emailed to 12 vendors:

All Care Driving School	Gersh Academy Driver's Ed
All Area Driving School	Ivy League School
All -Suffolk Auto School	Marsal Driving School
A-Ok Driving School	Precision Driving School
E-Z Auto Driving School	Suffolk Auto Driving School
Fitzgerald's Driving School	Twin County Driving School

Proposals were received until July 18, 2023 by 1:00 p.m.

The District received two (2) responses

Twin County Driving School	No Bid
Fitzgerald's Driving School	Fall and Spring Session \$395 per student
	Summer (2024) \$405 per student

I recommend that Fitzgerald's Driving School be awarded this contract, in accordance with the guidelines set forth within the proposal.

Respectfully,

Joanne Sharrott
 Interim Purchasing Agent



To: Catherine Freeman, Interim Assistant Sup. for Business & Operations
From: Joanne Sharrott, Interim Purchasing Agent
Re: Bid for Food Service Management Company
Date: July 18, 2023

With the assistance of HMB Consultants, LLC, the Purchasing Office solicited a bid to procure a Food Service Management Company to service meals to the District's students. A bid packet was emailed to 6 vendors and posted on the District's website.

Aramark Education
Whitson's Culinary Group
Sodexo

Chartwells
K-12 by Elio

Additionally, the bid was advertised in Smithtown News on June 8, 2023.

The bid opening day was June 28, 2023 and the District received 2 responses.

Aramark Education
Whitson's Culinary Group

No Bid
Bid @ \$3.53830 Per Meal

I recommend that Whitson's Culinary Group be awarded this contract, in accordance with the guidelines set forth in the bid.

Respectfully,

A handwritten signature in blue ink, appearing to read "Joanne Sharrott".

Joanne Sharrott
Interim Purchasing Agent

HMB Consultants

3 Douglas Lane
Voorheesville, NY 12186
Phone: 702-449-5525
E-Mail: Bigleyvh@gmail.com

July 21, 2023

Ms. Catherine Freeman
Interim Assistant Superintendent for Business
Hauppauge Union Free School District
495 Hoffman Lane
Hauppauge, New York 11788

Dear Ms. Freeman:

The Child Nutrition bids for the operation with a Food Service Management Company at the Hauppauge Union Free School District were opened on Monday, July 17, 2023. Whitson's School Nutrition, LLC, and Aramark Educational Services, LLC, were the two companies who received bid specifications. Whitsons Nutrition LLC was the only respondent. After a thorough review of the two bid proposals, I found the Whitsons response to be the lowest.

The Whitsons bid price on a per meal basis is \$3.5383 for breakfast and lunch. As a result of the Whitsons financial projections, it is anticipated the district will receive more than the guaranteed financial return stipulated for each year of the contract of \$10,000.00. I have enclosed a summary analysis of the bid for your review. Whitsons projects a return to the district of \$18,912.00 for the first year of the contract.

Based on the complete proposal submitted by Whitsons, with all submittals and required documents enclosed, it is my recommendation that the Hauppauge Union Free School District Child Nutrition Contract be awarded to Whitsons for the 2023-24 School Year.

It was a pleasure to assist you and the Hauppauge Union Free School District with the Child Nutrition Bid process.

Sincerely,

Heather M. Bigley

Heather M. Bigley
Consultant
HMB Consultants

The University of the State of New York NEW YORK STATE EDUCATION DEPARTMENT Child Nutrition Programs Administration 89 Washington Avenue, Room 375 EBA Albany, NY 12234 Telephone: (518) 473-8781 Fax: (518) 473-0018 Web Address: www.cn.nysed.gov	FORM #3 NYS Required 2023-2024 Cover Page for Food Service Management Company Contract and Bid Specifications
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Form #3 – BID SUMMARY FORM

School Food Authority: Hauppauge Union Free School District LEA Code: 580506030000

- 1) List the names of each Food Service Management Company submitting a sealed bid and the bid amount (use this form even if only one bid was received) and check the company awarded the bid. Submit this form with the signed contract.

FSMC Name	Bid Amount	Contract Awarded (check)
Whitsons Nutrition, LLC	\$3.53830	<input checked="" type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

- 2) Did the SFA award the bid to the vendor with the lowest bid amount? ☒ YES ☐ NO

If no, provide an explanation below and attach to Form #4 a signed copy of the Board of Education resolution/minutes awarding the food service contract.

- 3) If only one bid was received, provide an explanation below.

There were 2 FSMCs that received the bid specs. Both Whitsons and Aramark attended the vendor conference and tour of the schools. However, only Whitsons submitted a bid proposal.

Original Signature of SFA Representative (blue ink only)

Date