

**Supplemental Agreement between the
Plainview-Old Bethpage Central School District
and**

Supplemental Agreement dated this ___ day of _____, 20__ between the Plainview-Old Bethpage Central School District (the “District”), located at 106 Washington Avenue Plainview, New York 11803 and _____ (the “Contractor”) located at _____

WHEREAS, the District and Contractor have entered into a contract or other written agreement (hereinafter the “Agreement”) whereby the Contractor may receive Student Data or Teacher or Principal Data, as those terms are defined in Education Law §2-d and 8 NYCRR 121.1; and

WHEREAS, the District and Contractor wish to enter into an agreement in order to comply with Education Law §2-d and 8 NYCRR Part 121 (hereinafter “Supplemental Agreement”).

NOW THEREFORE, in consideration of the mutual promises below, the District and Contractor agree as follows:

1. Defined Terms: Unless otherwise indicated below or elsewhere in this Supplemental Agreement, all capitalized terms shall have the meanings provided in Education Law §2-d and Section 121.1 of the Regulations of the Commissioner of Education (hereinafter “Regulations”).
 - a. “Educational Agency” shall generally have the same meaning as the term Educational Agency at Education Law §2-d(1)(c) and Section 121.1(f), and in reference to the party to this Agreement shall mean the Plainview-Old Bethpage Central School District.
 - b. “Third Party Contractor” shall mean any person or entity, other than an Educational Agency, that receives Student Data or Teacher or Principal Data from an Educational Agency pursuant to a contract or other written agreement for purposes of providing services to such Educational Agency, including but not limited to data management or storage services, conducting studies for or on behalf of such Educational Agency, or audit or evaluation of publicly funded programs. With reference to this agreement, “Third Party Contractor” shall be synonymous with “Contractor” and shall also include any and all subcontractors, persons or entities with whom the Contractor shares Student Data and/or Principal or Teacher Data pursuant to a contract or other written agreement for purposes of providing services to such Educational Agency, including but not limited to data management or storage services, conducting studies for or on behalf of such Educational Agency, or audit or evaluation of publicly funded programs.
 - c. “Student” means any person attending or seeking to enroll in an Educational Agency.
 - d. “Student Data” means Personally Identifiable Information of a “Student.”
 - e. “Eligible Student” means a Student who is eighteen years or older.
 - f. “Parent” means a parent, legal guardian, or personal in parental relation to a Student.
 - g. “Building Principal” or “Principal” means a building principal subject to annual performance evaluation review under Education Law §3012-c.
 - h. “Classroom Teacher” or “Teacher” means a teacher subject to annual performance evaluation review under Education Law §3012-c.
 - i. “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.

- j. “Personally Identifiable Information” shall have the following meanings:
 - i. As applied to Student Data, shall mean Personally Identifiable Information as defined in 34 CFR 99.3 implementing the Family Educational Rights and Privacy Act (FERPA)
 - ii. As applied to Teacher or Principal Data, shall mean Personally Identifiable Information as that term is defined in Education Law §3012-c.
2. As required by Education §2-d(3) and Section 121.3 of the Regulations, the District has developed the Parents Bill of Rights for Data Privacy and Security, and the Data Privacy and Security Plan which are included as Exhibit A and Exhibit B, respectively, and incorporated into this Supplemental Agreement. Contractor shall complete and sign Exhibit A and B and append it to this Supplemental Agreement. Pursuant to Education Law §2-d and Section 121.3 of the Regulations, the District is required to post the completed Exhibits on its website.
3. As required by Education Law §2-d(3)(c) and Section 121.3 of the Regulations, the Contractor shall comply with the Data Security and Privacy Plan which is attached to this Agreement.
4. As required by Education Law §2-d(5)(e) and Section 121.3 of the Regulations, the Contractor hereby agrees that any officers or employees of the Contractor, including any subcontractors or assignees, who have access to Student Data or Teacher or Principal Data will have or will receive training on the Federal and New York State laws governing confidentiality of Student Data and/or Principal or Teacher Data prior to receiving access.
5. As required by Education Law §2-d(5)(f), the Contractor hereby agrees that it shall:
 - a. Limit internal access to education records to those individuals that are determined to have legitimate educational interests;
 - b. Not use the educational records for any other purposes than those explicitly authorized in the Agreement or this Supplemental Agreement;
 - c. Except for authorized representatives of the Contractor to the extent they are carrying out the Agreement or this Supplemental Agreement, not disclose any Personally Identifiable Information to any other party:
 - i. Without the prior written consent of the Parent or Eligible Student; or
 - ii. Unless required by statute or court order and the party provides a notice of the disclosure to the State Education Department, District Board of Education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order.
 - d. maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of personally identifiable student information in its custody.
6. Breach and unauthorized release of Personally Identifiable Information:
 - a. In accordance with Education Law §2-d(6) and Section 121.11 of the Regulations, the Contractor shall be required to notify the District of any breach of security resulting in an unauthorized release of Student Data and/or Principal or Teacher Data by the Contractor or its subcontractors or assignees in violation of applicable state or federal law, the Parents Bill of Rights for Student Data Privacy and Security, the data privacy and security policies of the District and/or binding contractual obligations relating to data privacy and security, in the most expedient way possible and without unreasonable delay. The District shall, upon notification by the Contractor, be

required to report to the Chief Privacy Officer, who is appointed by the State Education Department, any such breach of security and unauthorized release of such data.

- b. In the case of an unauthorized release of Student Data, the District shall notify the Parent or Eligible Student of the unauthorized release of Student Data that includes Personally Identifiable Information from the student records of such Student in the most expedient way possible and without unreasonable delay. In the case of an unauthorized release of Teacher or Principal Data, the District shall notify each affected Teacher or Principal of the unauthorized release of data that includes Personally Identifiable Information from the Teacher or Principal's annual professional performance review in the most expedient way possible and without unreasonable delay.
- c. In the case of notification to a Parent, Eligible Student, Teacher or Principal due to the unauthorized release of student data by the Contractor, or its subcontractors or assignees, the Contractor shall promptly reimburse the educational agency for the full cost of such notification, as required by Education Law §2-d(6)(c).

7. Destruction and Return of Data:

- a. Upon expiration of the Services Agreement without renewal, or upon termination of the Services Agreement prior to its expiration, the Contractor will securely delete or otherwise destroy any and all Protected Data remaining in the possession of the Contractor or any of its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data. If requested by the District, the Contractor will assist the District in exporting all Protected Data previously received back to the District for its own use, prior to deletion, in such formats as may be requested by the District.
- b. In the event the Services Agreement is assigned to a successor Contractor (to the extent authorized by the Services Agreement), the Contractor will cooperate with the District as necessary to transition Protected Data to the successor Contractor prior to deletion.
- c. Neither the Contractor nor any of its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data will retain any Protected Data, copies, summaries or extracts of the Protected Data, or any de-identified Protected Data, on any storage medium whatsoever. Upon request, the Contractor and/or its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data, as applicable, will provide the District with a certification from an appropriate officer that these requirements have been satisfied in full.

8. Miscellaneous:

- a. The District and Contractor agree that if applicable laws change and/or if the Commissioner of Education implements Regulations which affects the obligations of the parties herein, this Agreement shall be deemed to incorporate such changes as necessary in order for the District and the Contractor to operate in compliance with the amendment or modified requirements under the applicable laws or regulations.
- b. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the District to comply with the applicable laws or regulations.
- c. Nothing express or implied in this Agreement is intended to confer upon any person other than the District, Contractor and their respective successors and assigns any rights, remedies, obligations or liabilities.

[Signature page follows]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

PLAINVIEW-OLD BETHPAGE CENTRAL SCHOOL DISTRICT

By: JB Lerner

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



EXHIBIT A

Parents Bill of Rights for Student Data Privacy and Security

Pursuant to New York State Education Law §2-d, parents, legal guardians and persons in parental relation to a student are entitled to certain rights with regard to their child's personally identifiable information, as defined by Education Law §2-d. This document contains a plain-English summary of such rights.

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 educational records maintained by the Plainview-Old Bethpage Central School District.
3. State and Federal Laws protect the confidentiality of personally identifiable student 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 New York State is available for review at the [New York State Education Department website](#).

The list may also be made available by writing to:

New York State Education Department
Chief Privacy Officer
89 Washington Avenue, EB 152
Albany, NY 12234

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to:

Assistant Superintendent for Human Resources
Plainview-Old Bethpage Central School District
106 Washington Avenue
Plainview, New York 11803
Email: cdonarummo@pobschools.org
Telephone: (516) 434-3074

OR

Chief Privacy Officer
New York State Education Department
89 Washington Avenue
Albany, NY 12234
Email: privacy@nysed.gov

6. Each contract with a third-party contractor which will receive student data, or teacher or principal data will include information addressing the following:
 - a. The exclusive purposes for which the 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 third-party contractor 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 the student data or teacher and principal data upon expiration of the agreement.
 - d. If and how a parent, student, a student over eighteen years of age, 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 whether such data will be encrypted.

7. Third-party contractors are also required to:

- a. Provide training on federal and state law governing confidentiality to any officers, employees, or assignees who have access to student data or teacher or principal data;
 - b. Limit internal access to education records to those individuals who have a legitimate educational interest in such records.
 - c. Not use educational records for any other purpose than those explicitly authorized in the contract;
 - d. Not disclose personally identifiable information to any other party (i) without the prior written consent of the parent or eligible student; or (ii) unless required by statute or court order and the third-party contractor provides a notice of the disclosure to the New York State Education Department, board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
 - e. Maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of personally identifiable student information in its custody;
 - f. Use encryption technology to protect data while in motion or in its custody from unauthorized disclosure as specified in Education Law §2-d;
 - g. Notify the Plainview Old-Bethpage Central School District of any breach of security resulting in an unauthorized release of student data or teacher or principal data, in the most expedient way possible and without unreasonable delay;
 - h. Provide a data security and privacy plan outlining how all state, federal and local data security and privacy contract requirements will be implemented over the life of the contract;
 - i. Provide a signed copy of this Bill of Rights to the Plainview Old-Bethpage Central School District thereby acknowledging that they are aware of and agree to abide by this Bill of Rights.
8. This Bill of Rights is subject to change based on regulations of the Commissioner of Education and the New York State Education Department's Chief Privacy Officer, as well as emerging guidance documents.

Company Name

Print Name and Title



Signature of Provider

Date

Return to:
Alex Goldberg
Director of Technology
Plainview-Old Bethpage Central School District
agoldberg@pobschools.org

EXHIBIT B
Data Security and Privacy Plan

As per paragraph 3 of the Supplemental Agreement, this plan must be completed by the Contractor within 10 days of the signing of said agreement.

1. Exclusive Purposes for Data Use

- a. The exclusive purposes for which the Student Data and/or Principal or Teacher Data will be used by the Contractor are as follows:

2. Data Accuracy/Correction Practices

- a. Parent, student, eligible student, teacher or principal may challenge the accuracy of the data by:

3. The Contractor will ensure that any and all subcontractors, persons or entities that the Contractor may share the Student Data and/or Principal or Teacher Data with will abide by the terms of the Agreement, the Supplemental Agreement, and the data protection and security requirements set forth in this Data Security and Privacy Plan, in accordance Education Law §2-d and Part 121 of the Regulations.

- a. This contract has subcontractors: Yes: ___ No: _____
b. Describe how the contractor will ensure subcontractors abide by data protection and security requirements, including but not limited to those outlined in applicable state and federal laws and regulations:

4. Security Practices

- a. Where is the data stored? (described in such a manner as to protect data security)

- b. The security protection taken to ensure data will be protected include *[Insert (i) a description of where Student Data and/or Principal or Teacher Data will be stored, described in a manner to protect data security, (ii) a description of the security protections taken to ensure Student Data and/or Principal or Teacher Data will be protected and data security and privacy risks are mitigated; and (iii) a description of how the Student Data and/or Principal or Teacher Data will be protected using encryption while in motion and at rest.*

5. Contract Lifecycle Practices

- a. The agreement expires _____
- b. When the agreement expires,
- i. How long will the Student Data and/or Principal or Teacher Data be retained?
 - ii. How will the student data be disposed of?

6. Encryption Practices

- a. Data encryption is applied in accordance with Education Law 2-d 5(f)(5)
Yes: _____ No: _____

7. Training Practices

- a. As required by Education Law §2-d(5)(e) and Section 121.3 of the Regulations, the Contractor provides annual training on federal and state law governing confidentiality for any officers, employees, or assignees who have access to student [or teacher or principal] data
Yes: _____ No: _____

Company Name

Print Name and Title

AB _____
Signature of Provider Date

Return to:
Alex Goldberg
Director of Technology
Plainview-Old Bethpage Central School District
agoldberg@pobschools.org