



Financial Services  
Office of Procurement Services  
8115 Gatehouse Road, Suite 4400  
Falls Church, VA 22042

Date of Award: 3/10/2025

MIND Education  
Attention: Rache McKinney, Manager, Revenue Operations  
5281 California Avenue, Suite 300  
Irvine, CA 92617

Reference: Conroe Independent School District, Instructional Supplies and Materials, RFP# 23-01-04

Dear Ms. McKinney, Rachel

**Acceptance Agreement**

**Contract Number: 4400013583**

This Acceptance Agreement signifies a contract award to MIND Education for ST Math Digital Instructional Supplies and Materials. The period of the contract shall be from the date of award through June 30, 2028. There are four (4) one-year renewal options.

The contract award shall be in accordance with:

1. This Acceptance Agreement;
2. The attached Fairfax County Public Schools contract 4400013583;
3. The Prices, Terms and Conditions of Conroe Independent School District, Contract # RFP# 23-01-04.

Please note that this is not an order to proceed. A purchase order, which constitutes your notice to proceed, will be issued to your firm. Please provide your Insurance Certificate according to Special Provisions Paragraph 16 within five (5) days after receipt of this letter. Contract award documents may be viewed on the Fairfax County, Department of Purchasing and Supply Management website at: [www.fairfaxcounty.gov/dpsm/contracts.htm](http://www.fairfaxcounty.gov/dpsm/contracts.htm).

Sincerely,

DocuSigned by:  
*Michelle Pratt*  
C14D4C9B7D15422  
Michelle R. Pratt  
Director

MRP/ASW

Contract Number 4400013583

**Contract Number 4400013583**

THE PARTIES TO THIS CONTRACT, Fairfax County School Board ("FCPS", "FAIRFAX COUNTY", or "the County") AND MIND Education. ("CONTRACTOR") MUTUALLY AGREE THAT:

1. FCPS engages the CONTRACTOR to provide the following goods and/or services:
  - 1.1. The Contractor shall provide licenses to ST Math digital learning platform to support Elementary, Middle and High School in accordance with Conroe Independent School District, Instructional Supplies and Materials, RFP# 23-01-04.
  - 1.2. The County and CONTRACTOR agree that Contract #4400013583 consists of the following documents:
    - a. Contract No. 4400013583
    - b. Attachment A – Price Proposal
    - c. Attachment B – National Data Privacy Agreement
    - d. Conroe Independent School District, Instructional Supplies and Materials, RFP# 23-01-04
  - 1.3. Service Level Agreement: The contract's proposed Service Level Agreement shall meet the following specifications:
    - a. The CONTRACTOR will ensure a minimum of 99.9% availability, consistent with the FCPS School Board operational expectations, by ensuring service availability, limiting maintenance interruptions, and managing incidents (or "trouble tickets") efficiently.
    - b. Workarounds – It is desirable, when possible, for the CONTRACTOR to implement a workaround to temporarily restore service to FCPS so as to lessen the impact on normal operations. Implementation of such a workaround does not extend or alter the permanent repair time in any manner.
    - c. The CONTRACTOR must have established administrative, ethical, and technological security measures and processes implemented within its organization for the purpose of protecting and maintaining continuity of its service delivery to FCPS.
  - 1.4. Maintenance and Technical Support:

MIND Education shall offer FCPS support Monday–Friday (excluding national and company holidays referenced below) within the hours of 8 a.m.–8 p.m. EST. FCPS' employee shall receive timely support for any technical issues, including rostering, assignments, and more. MIND Education's customer and technical support team accept tickets by phone or email (888-491-6603 & support@mindeducation.org. All phone calls are received in real time and answered as long as they are within the hours stated above. All emails will receive a ticket number at once and a response from an agent within one (1) business day. MIND Education will strive to resolve all support requests within the same business day. In the event an issue is escalated due to complexity, resolution on these cases will range from 24 hours to 4 business days

When trained support staff members cannot resolve the technical support request, MIND

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Education shall escalate the request to MIND Education's applicable internal stakeholder whose hours may be limited to regular working hours (8 a.m.– 8 p.m. EST).

January 20th - Martin Luther King, Jr. Day Observed

February 17th - Presidents' Day Observed

May 26th - Memorial Day Observed

June 19th - Juneteenth Observed

July 4th - Independence Day Observed

September 1st - Labor Day Observed

November 11th - Veterans Day Observed Early close Wednesday

November 26th November 27th - November 28th - Thanksgiving Observed

December 24th - January 1st - Winter Break Observed

2. PERIOD OF CONTRACT:

- 2.1. The period of this contract shall be from the date of award through June 30, 2028.
- 2.2. Automatic contract renewals are prohibited. This contract may be renewed at the expiration of its term by agreement of both parties. Contract renewals must be authorized by and coordinated through the Office of Procurement Services. FCPS reserves the right to renew the contract for four (4) additional one-year periods.
- 2.3. The obligation of the County to pay compensation due the Contractor under the contract or any other payment obligations under this contract is subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations. The County's obligations to make payments during subsequent fiscal years are dependent upon the same action. If such an appropriation is not made for any fiscal year, the contract shall terminate effective at the end of the fiscal year for which funds were appropriated and the County will not be obligated to make any payments under the contract beyond the amount appropriated for payment obligations under the contract. The County will provide the Contractor with written notice of non-appropriation of funds within thirty (30) calendar days after action is completed by the Board of Supervisors. However, the County's failure to provide such notice will not extend the contract into a fiscal year in which sufficient funds have not been appropriated.

3. COMPENSATION:

- 3.1. FCPS agrees to pay the Contractor for goods/services provided in accordance with Conroe Independent School District, Contract RFP#23-01-04. As the Contractor is not a bonafide County employee the parties agree that no deductions for withholding taxes, workman's compensation, insurance, or other fringe benefits will be made and will be the sole responsibility of the Contractor. See attached Appendix A – Price Proposal.

4. AUTHORITY:

- 4.1. The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every contract and purchase order (except for capital construction projects) issued by Fairfax County. In the discharge of these responsibilities, the Purchasing

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Agent may be assisted by assigned contract administrators. Specifically delegated employees are authorized to order supplies or services, and obligate the government of Fairfax County for indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and shall not be binding on the County.

5. DEFINITIONS:

5.1. All terms used in this agreement are defined in the Fairfax County Purchasing Resolution, Article 1, Section 6 and shall be used in accordance with such definitions.

6. INTERPRETATION OF CONTRACT:

6.1. Any questions pertaining to this contract shall be directed to:

Lyn Wrigley, Sr. Contract Specialist  
Fairfax County Public Schools  
Office of Procurement Services  
8115 Gatehouse Road, Suite 4400  
Falls Church, Virginia 22042-1203  
Telephone: 571-423-3581  
Email: [aswrigleyl@fcps.edu](mailto:aswrigleyl@fcps.edu)

7. METHOD OF ORDERING:

7.1. As requirements arise, authorized individuals will place orders for specific quantities of items covered herein. Regardless of the method of ordering used, the contract and any subsequent modifications determine performance time and dates. Performance under this contract is not to begin until receipt of the purchase order, Procurement Card order, or other notification to proceed by the County Purchasing Agent and/or County agency to proceed.

7.2. The County may use two (2) different methods of placing orders from the contract: Purchase Orders (PO) and approved County procurement cards. The method of payment is at the discretion of the County. No additional surcharges will be accepted for the use of the procurement card.

7.3. A Purchase Order may be issued to the contractor on behalf of the County agency ordering the items/services covered under this contract. An issued PO will become a part of the resulting contract.

7.4. Credit card orders and payments may also be made by the use of a Fairfax County or Fairfax County Public Schools "Procurement" Card. The Procurement card is currently under contract with JP Morgan Chase/Master Card.

8. CANCELLATION OF ORDERS:

8.1. Purchases made under this contract are for readily available services and supplies; time is of the essence in furnishing the items ordered. The County reserves the right to cancel the order and/or to refuse delivery if the items ordered are not furnished within the period of time specified in this contract. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.

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9. INSPECTION AND ACCEPTANCE: INTENTIONALLY OMITTED

10. INVOICING PROCEDURE:

10.1. The Contractor shall submit an invoice for each Purchase Order and submit to the BILL TO address shown on the order. The invoice shall contain the applicable Purchase Order number, BP (call order number), and the name of the department receiving the supplies or services.

11. PAYMENT:

11.1. Payment shall be made thirty (30) days after upon receipt of a properly completed invoice, subject to contract requirements. Fairfax County reserves the right to withhold any or all payments or portions due to Contractor's failure to perform in accordance with the provision of the contract, including failure of goods delivered to satisfactorily pass inspection or acceptance testing.

11.2. Unless otherwise stated in the contract, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent of the value of the entire order may be retained until completion of contract.

11.3. For equipment, payment of the contract price may be paid after such equipment is delivered on the site, installed (if installation is required), and tested and found to be satisfactory and, further, subject to the requirements of Section 11.

12. AUDIT RECORDS:

12.1. The Contractor shall maintain adequate copies of books, records, vouchers, and records of treatment in such a manner that they may be audited in progress and upon three years following completion of the contract. The Contractor, from the effective date of final payment or termination hereunder, shall preserve and make such records available to Fairfax County for a period of three (3) years thereafter.

13. TAX EXEMPTION:

13.1. Fairfax County Public Schools is exempt from and will not pay Federal Excise Tax, Transportation Tax, or the Commonwealth of Virginia Sales and Use Tax. The Federal Excise Tax Number is 003018644. The Commonwealth of Virginia Sales and Use Tax Certificate may be obtained by calling 571-423-3743.

14. CONTRACT INSURANCE PROVISIONS:

14.1. The Contractor shall be responsible for its work and all materials, tools, equipment, appliances, and property of any and all description used in connection with this contract. The Contractor assumes all risk of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the contract.

14.2. The Contractor shall, during the continuance of all work under the contract maintain the

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following insurance:

- a. Statutory Workers' Compensation and Employer's Liability with limits of at least \$100,000.
- b. Commercial General Liability insurance with limits of \$1,000,000 each occurrence and \$2,000,000 aggregate including contractual liability, personal and advertising injury, and products, completed operations coverage.
- c. Automobile Liability insurance, in the amount of \$1,000,000 Combined Single Limit covering all vehicles operated or in use by the Contractor in the performance of this contract.
- d. Cyber/Information Technology insurance in the amount of \$1,000,000 per occurrence and annual aggregate, including coverage for costs of third party notification, credit monitoring, and fraud protection.

14.3. Fairfax County Public Schools, the Fairfax County School Board, its officers, and employees shall be named as an additional insured in the Automobile and General Liability policies.

14.4. Additional Requirements

- a. The Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VI.
- b. European markets including those based in London, and the domestic surplus lines markets that operate on a non-admitted basis are exempt from the requirement provided that the contractor's broker can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A:VI or better.
- c. Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.
- d. Prior to commencement of services and during the term of the contract. the contractor will provide a signed Certificate of Insurance citing the contract number and such coverage as required by this section.
- e. The contractor will secure and maintain all insurance certificates of its subcontractors, if any, which shall be made available to FCPS on demand.
- f. The certificate holder's name and address shall read: Fairfax County Public Schools, 8115 Gatehouse Road, Falls Church, VA 22042.

15. INDEMNIFICATION:

- 15.1. The contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, theft, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result there from,

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if it shall be determined that the act was caused through negligence or error, or omission, breach of contract or wrongful misconduct of the contractor or his or her employees, or that of the subcontractor or his or her employees, if any; and the contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising there from or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the contractor shall, at his or her own expense, satisfy and discharge the same. The contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

16. CONTRACT ALTERATIONS:

- 16.1. No alterations in the terms of the contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent. Should it become proper or necessary in the execution of this contract to make any change in design or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment.
- 16.2. No payment shall be made to the contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.
- 16.3. The County reserves the right to add similar items/services or delete items/services specified in the resultant contract as requirements change during the period of the contract. Fairfax County and the contractor will mutually agree to prices for items/services to be added to the contract. Contract amendments will be issued for all additions or deletions.

17. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS:

- 17.1. The contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the contractor desires to assign his or her right to payment of the contract, contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.

18. TERMINATION FOR CONVENIENCE:

- 18.1. The contract will remain in force for the full period specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and until all requirements and conditions shall have been met, unless:
  - a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.
  - b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unordered balances or additional quantities at contract prices and in accordance with contract terms.

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- 18.2. The contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery of a Notice of Termination to the Contractor at least five working days prior to the termination date specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

19. TERMINATION OF CONTRACT FOR CAUSE:

- 19.1. If, through any cause, the Contractor fails to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this contract, in addition to the County's remedies under the contract and all other rights available at law or in equity, the County shall have the right to immediately terminate this contract. Such termination shall be effected by delivering a notice of termination to the Contractor at any time specifying the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
- 19.2. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.

20. GUARANTIES & WARRANTIES:

- 20.1. All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless in conflict with this contract or as otherwise stated, manufacturer's standard warranty applies.
- 20.2. Each party represents and warrants to the other party that: (i) it is duly organized, validly existing, and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization; (ii) it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under this Agreement; (iii) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and (iv) when executed and delivered by both parties, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

21. SERVICE CONTRACT GUARANTY:

- 21.1. Contractor agrees to:
- a. Furnish services described in the contract at the times and places and in the manner and subject to conditions set forth provided that the County may reduce the said services at any time.
  - b. Enter upon the performance of services with all due diligence and dispatch, assiduously

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press to its complete performance, and exercise therein the highest degree of skill and competence.

- c. Perform all work and services hereunder in strict conformance to all applicable laws, statutes, ordinances, rules, regulations, methods and procedures.
- d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.
- e. Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material.

22. OFFICIALS NOT TO BENEFIT:

- 22.1. Upon acceptance of this contract, the Contractor certifies that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract in accordance with the Fairfax County Purchasing Resolution Article 2, Section 4.A.3.

23. LICENSE REQUIREMENT:

- 23.1. All firms doing business in Fairfax County shall obtain a license as required by Chapter 4, Article 7.2, of The Code of the Fairfax County, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration [http://www.fairfaxcounty.gov/dta/business\\_bpole.htm](http://www.fairfaxcounty.gov/dta/business_bpole.htm) or by telephone (703) 222-8234.

24. REGISTERING OF CORPORATIONS:

- 24.1. In accordance with Virginia Code Section 13.1-758, any foreign corporation transacting business in Virginia shall secure a certificate of authority as required by Section 13.1-757 of the Code of Virginia, as amended, from the State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23209.

25. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:

- 25.1. A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with Fairfax County pursuant to the Fairfax County Purchasing Resolution shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required

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under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. Fairfax County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

26. COVENANT AGAINST CONTINGENT FEES:

26.1. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

27. VENDOR RELATIONS DIVISION:

27.1. In connection with the performance of this contract, the Contractor agrees to use his or her best effort to carry out this policy and to insure that small and minority businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract. Contractors may rely on oral or written representations by subcontractors regarding their status as small and/or minority business enterprises in lieu of independent investigation. PLEASE COMPLETE THE ATTACHED BUSINESS CLASSIFICATION SCHEDULE.

27.2. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

28. INELIGIBILITY:

28.1. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent, in accordance with Article 4, Section 1 of the Fairfax County Purchasing Resolution.

29. ORDER OF PRECEDENCE:

29.1. In the event of conflict, the provisions of this contract shall take precedence over any other contract document.

30. DELAYS AND SUSPENSIONS:

30.1. The County may direct the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time deemed appropriate for the convenience of the County. The County will extend the Contractor's time of completion by a period of time that in the discretion of the Purchasing Agent is reasonably suited for completion of work. The County may further amend the contract by mutual agreement for any increase in the cost of performance of the contract (excluding profit) resulting solely from the delay or suspension of the contract. No adjustment shall be made under this clause for any delay or interruption

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resulting from any other cause, including the fault or negligence of the Contractor.

30.2. If the County does not direct the Contractor, in writing, to suspend, delay, or interrupt the contract, the Contractor must give the County Purchasing Agent written notice if Fairfax County fails to provide data or services that are required for contract completion by the Contractor. The County may extend the Contractor's time of completion by a period of time that in the discretion of the Purchasing Agent is reasonably suited for completion of work. The County may further amend the contract by mutual agreement for any increase in the cost of performance of the contract (excluding profit) resulting solely from the delay or suspension of the contract. No adjustment shall be made under this clause for any delay or interruption resulting from any other cause, including the fault or negligence of the Contractor.

30.3. The Contractor shall continue its work on other phases of the project or contract, if in the sole discretion of the Purchasing Agent such work is not impacted by the County's delay, suspension, or interruption. All changes to the work plan or project milestones shall be reflected in writing as a contract amendment.

31. CONTRACTUAL DISPUTES:

31.1. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the contractor within ninety (90) days, in accordance with Article 4, Section 5 of the Fairfax County Purchasing Resolution, as amended.

32. COMPLIANCE WITH FEDERAL, STATE, AND COUNTY LAWS:

32.1. The Contractor will comply with all applicable federal and state laws and with all County ordinances and requirements.

33. NON-DISCRIMINATION:

33.1. During the performance of this contract, the Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor, in accordance with Article 2, Section 4.C of the Fairfax County Purchasing Resolution, as amended.

34. DRUG FREE WORKPLACE:

34.1. During the performance of this contract, the contractor agrees to provide a drug-free workplace for the contractor's employees in accordance with Article 2, Section 4, B.6 of the Fairfax County Purchasing Resolution, as amended.

35. AMERICANS WITH DISABILITIES ACT REQUIREMENTS:

35.1. Fairfax County Government is fully committed to the federal Americans with Disabilities Act (ADA), which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all County programs, activities and

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services. Fairfax County government contractors, subcontractors, vendors, and/or suppliers are subject to this ADA policy. All individuals having any County contractual agreement must make the same commitment. Acceptance of this contract by the Contractor acknowledges the Contractor's commitment and compliance with ADA.

36. VENUE:

36.1. This contract and its terms, including, but not limited to, the parties' obligations under it, the performance due from each party under it, and the remedies available to each party for breach of it, shall be governed by, construed and interpreted in accordance with the laws of the Commonwealth of Virginia. Any jurisdiction's choice of law, conflict of laws, rules, or provisions, including those of the Commonwealth of Virginia that would cause the application of any laws other than those of the Commonwealth of Virginia shall not apply. Any and all disputes, claims and causes of action arising out of or in connection with this contract or any performance hereunder, shall be brought in the state courts of Fairfax County, Virginia, or in the United States District Court, Eastern District of Virginia, Alexandria Division.

37. IMMIGRATION REFORM AND CONTROL ACT:

37.1. Contractor certifies that it does not, and shall not during the performance of the contract for goods and services in the Commonwealth knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

38. BACKGROUND CRIMINAL INVESTIGATION/IDENTIFICATION:

38.1. By the signature of its authorized official on this contract, the Contractor certifies that neither the contracting official nor any of the Contractor's employees, agents or subcontractors who will have direct contact with students has been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child. The Contractor agrees to remove from the contract any employee, agent or subcontractor who has been determined by the School Board to be disqualified from service due to such convictions or the failure to truthfully report such convictions.

38.2. The Contractor shall immediately notify the FCPS contract administrator if any Contractor or employee of said Contractor providing services under the contract is arrested or indicted as a defendant in Virginia or any other jurisdiction. FCPS reserves the right to require that the employee be suspended from working on the contract until the charge(s) is adjudicated. This requirement does not apply to minor traffic violations, not requiring the appearance of the employee in court, unless the charge includes the illegal possession, distribution, use or influence of drugs or alcohol.

38.3. Due to enhanced security measures, Contractor employees/representatives are required to have photo identification and be able to present same upon request. Contractor employees/representatives shall report to the appropriate administrative and/or main office each time a site is visited. All contractors will be required to wear a company picture ID badge, or temporary name tag, issued by the County, clearly visible above the waist. Contractor employees/representatives who arrive at the County/School facility without appropriate identification badges will immediately be dismissed from the job site.

38.4. Failure to comply with the above requirements may result in termination of the contract.

39. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:

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- 39.1. Pursuant to Code of Virginia, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Any bidder or offeror that fails to provide the required information may not receive an award.

SCC Identification Number: F2026997

ACCEPTED BY:

*Karen Talbert*  
Karen Talbert (Feb 10, 2025 19:46 EST)  
 Karen Talbert, Vice President of Partnerships  
 MIND Education

02/10/25  
 DATE

*Noel Klimenko*  
 Noel Klimenko, Assistant Superintendent  
 Instructional Services

2/24/25  
 DATE

DocuSigned by:  
*Michelle Pratt*  
C14D4C9B7D1F422...  
 Michelle R. Pratt, Director  
 Office of Procurement Services

3/10/2025 | 3:45 PM EDT  
 DATE

BUSINESS CLASSIFICATION SCHEDULE

**DEFINITIONS**

**Small Business/Organization** – is an independently owned and operated business which, together with affiliates, has 250 or fewer employees or average annual gross receipts of \$10 million or less averaged over the previous three years..

**Minority Business** – is a business concern that is at least **51%** owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company, or other entity, at least **51%** of the equity ownership interest in the corporation, partnership or limited company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals. Such individuals shall include Asian American, African American, Hispanic American, Native America, Eskimo or Aleut.

**Woman-Owned Business** – A business concern that is at least **51%** owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited company or other entity, at least **51%** of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women who are U.S. citizens or legal resident aliens.

**YOU MUST CLASSIFY YOUR BUSINESS/ORGANIZATION BY MARKING ONE (1) OF THE SIX (6) BOXES IN THE CHART BELOW.** This designation is required of all business/organizations including publicly traded corporations, non-profits, sheltered workshops, government organizations, partnerships, sole proprietorships, etc.

**Examples:**

A small business, Asian woman owned, would mark box C on line 2.

A large business, African-American owned, would mark box V on line 3.

A small non-profit would mark box B on line 1.

A large business, publicly traded on NYSE or NASDAQ, would mark box Y on line 1.

Line	SMALL BUSINESS	LARGE BUSINESS	OWNERSHIP
1	<input checked="" type="checkbox"/> B	<input type="checkbox"/> Y	Regardless of Ownership
2	<input type="checkbox"/> C	<input type="checkbox"/> A	Women-Owned
3	<input type="checkbox"/> X	<input type="checkbox"/> V	Minority-Owned

NAME OF FIRM:  MIND Education

## Appendix A – Price Proposal



MIND Education  
 5281 California Avenue, Suite 300  
 Irvine, CA 92617  
 949-345-8700  
 866-569-7014  
 www.mindeducation.org

Please submit purchase orders:  
 By email: [purchaseorders@mindeducation.org](mailto:purchaseorders@mindeducation.org)  
 By Fax: 1-866-569-7014  
 You can view our technical requirements [here](#)  
 Thank you for being an ST Math partner!

Created Date 2/6/2025  
 Quote Number 00021731  
 Expiration Date 6/7/2025  
 Partnership Manager Doug Bruno  
 Partnership Manager Email [dbruno@mindeducation.org](mailto:dbruno@mindeducation.org)  
 Education Success Manager Melissa Galban  
 Education Success Manager Email [mgalban@mindeducation.org](mailto:mgalban@mindeducation.org)

Bill To Name Fairfax Co Pblc Schs  
 Bill To ACCOUNTS PAYABLE  
 PO BOX 4000  
 ALEXANDRIA, VA 22116  
 United States

Ship To Name Fairfax Co Pblc Schs  
 Ship To 8116 GATEHOUSE RD  
 FALLS CHURCH, VA 22042  
 United States

Product	Quantity	Detail Description	Total Price
Assessment Support Tool	144.00	Assessment Support Tool 1 school for 1 school year - Uses NWEA assessment data to auto-assign ST Math content to students who need it most - Grades 2-8	USD 72,000.00
Comment	1.00	Fairfax Co partner discount	USD 0.00
MIND in Kind	1.00	This offer of MIND in Kind support is based upon the LEA's demonstrated financial need and has been awarded at the discretion of the MIND Education's School Grants team. Covers 28 Middle Schools at reduced rate	USD -907,200.00
Renew ST Math Site Subscription (1-160 Students)	28.00	ST Math Site Subscription renewal includes: Annual Software License, One (1) virtual PL Offering, Implementation Support, ST Math Academy On-demand PL, Embedded help and tutorials, Software Updates, and Tech Support	USD 61,999.92
Renew ST Math Site Subscription (261+ Students)	144.00	ST Math Site Subscription renewal includes: Covers all 144 existing ST Math schools Annual Software License, One (1) Virtual PL Offering, Implementation Support, ST Math Academy On-demand PL, Embedded help and tutorials, Software Updates, and Tech Support	USD 1,728,000.00
Renewal Discount	1.00	DISCOUNT APPROVED BY MIND RENEWALS DEPARTMENT AST partner discount Licenses for use at High Schools	USD -14,399.92



Renewal/Annual Service - ST Math Student License	1,200.00	ST Math Annual Service/Renewal Fee Includes: - Renewal of ST Math Software License - Ongoing Minor Software Updates - Access to ST Math Academy Online Courses (Asynchronous via Web Browser) - Technical Support during Standard Business Hours via Email or Phone - Weekly School Progress Reports Delivered via Email	USD 12,000.00
		Subtotal	USD 942,400.00
		Grand Total	USD 942,400.00

*\*Total does not include any applicable sales tax. If you are not tax exempt the final invoice may include sales tax, depending upon your state and local tax regulations. If you are tax exempt, please send a copy of your tax exemption certificate to [remittance@mindeducation.org](mailto:remittance@mindeducation.org) in order to ensure that sales tax is not included on your final invoice.*

Start Date 9/1/2025  
End Date 8/31/2026



# STANDARD STUDENT DATA PRIVACY AGREEMENT

(National Data Privacy Agreement (NDPA) Standard VERSION 2)

**Fairfax County Public Schools**

And

**Mind Education**

Version 2

*Authored by Members of the Student Data Privacy Consortium (SDPC) &*

*Mark Williams, Fagen, Friedman & Fulfrost LLP*

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*This document may only be used by A4L Community members and may not be altered in any substantive manner.*

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

Fairfax County Public School Board, the public body in Virginia that operates Fairfax County Public Schools,

located at Office of Procurement Services – Gatehouse Administration Center at 8115 Gatehouse Road, Suite 4400, Falls Church, VA 22042-1203 (the “LEA”)

and

MIND Education, located at 5281 California Avenue, Suite 300, Irvine, CA 92617 (the “Provider”).

## PREAMBLE

**WHEREAS**, the Provider is providing educational or digital Services, as defined in Exhibit “A”, to LEA, which Services may include: (a) cloud-based Services for the digital storage, management, and retrieval of pupil records; and/or (b) digital educational software that authorizes Provider to access, store, and use pupil records; and

**WHEREAS**, the Provider and LEA have entered into a Service Agreement (as defined herein), to provide certain Services to the LEA as set forth in the Service Agreement, and this DPA (collectively the “Agreement”),

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

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

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

### *General Offer of Privacy Terms.*

The Provider has signed Exhibit “E” to the SDPC Standard Clauses, otherwise known as “General Offer of Privacy Terms” enabling other LEAs to enter into the same terms of this DPA with Provider.

### *Special Provisions. (Check if Required)*

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

*If the Parties desire to change any terms, use the ‘Vendor-Specific’ Agreement or ‘District-Modified’ Agreement.*

The designated representative for the LEA for this DPA is:

Name: Noel Klimenko Title: Assistant Superintendent, Instructional Services
Address: 8270 Willow Oaks Corporate Dr. Fairfax, VA 22031
Phone: Email: ncklimenko@fcps.edu

The designated representative for the Provider for this DPA is:

Name: Karen Talbert Title: Vice President of Partnerships
Address: 5281 California Ave., Suite 300, Irvine, CA 92617
Phone: 949-345-8700 Email:

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

LEA: Fairfax Public School Board

Signed By: Michelle Pratt Date: 3/10/2025 | 3:45 PM EDT
Printed Name: Michelle Pratt Title/Position: Director, Procurement

PROVIDER: MIND Education

Signed By: Karen Talbert Date: Feb 11, 2025
Printed Name: Karen Talbert Title/Position: Vice President of Partnerships

Each Party is responsible to promptly notify the other Party of changes to the notice information.

Notices to Provider

Karen Talbert
Vice President of Partnership
5281 California Ave., Suite 300, Irvine, CA 92617
ktalbert@mindeducation.com

Notices to LEA

Noel Klimenko
AssitantSuperintendent
8115 Gatehouse Road, Falls Church, VA 22042
ncklimenko@fcps.edu

With a copy to (if provided):

- Provider Legal Counsel
Provider Legal Counsel Postal Address
Provider Legal Counsel E-mail Address

With a copy to (if provided):

Fairfax County Public Schools, Office of Division Counsel
8115 Gatehouse Road, Falls Church, VA 22042-1203

Security Notices to Provider (Required per Section 5.3)

- Provider Security Name
Provider Security Role
Provider Security Postal Address

Security Notices to LEA (Required per Section 5.3)

Tainiko Lowman
Senior Manager, OCS

[ Provider Security E-mail Address ]

Wilton Woods, 3701 Franconia Rd. Alexandria, VA  
22310  
datasecurity@fcps.edu

## STANDARD CLAUSES

### ARTICLE I: PURPOSE AND SCOPE

#### 1.1 Purpose of DPA.

The purpose of this DPA is to describe the duties and responsibilities to protect Student Data including compliance with all applicable federal and state privacy laws, rules, and regulations, all as may be amended from time to time. In performing the Services, the Provider shall be considered a School Official with a legitimate educational interest, and performing Services otherwise provided by the LEA. With respect to its use and maintenance of Student Data, Provider shall be under the direct control and supervision of the LEA as set forth in this DPA and the Service Agreement.

#### 1.2 Description of Products and Services.

A description of all products and services covered by the Agreement, and information specific to this DPA, are listed in Exhibit "A". If a Provider needs to update any information on Exhibit "A" (such as updating with new provided services), they may do so by completing the Addendum template provided by the A4L Community and sending a copy to the LEA.

Provider may add or delete products or services subject to this DPA under the following circumstances:

1. Deleted products or services: The products or services have been discontinued and are no longer available from the Provider.
2. Added products or services: The added products or services are either:
  - a. a direct replacement, or substantially equivalent to the original products or services listed in the DPA, or
  - b. the added products or services result in enriched new or enhanced capabilities, new modules, technology advancements and or service categories relating to the listed products or services that Provider did not have at the time the DPA was signed.

If an added product or service requires additional Data Elements, Provider must complete the relevant portion of the Addendum template to update Exhibit "B".

Provider may not make any change to Exhibit "A" via an Addendum, except adding or deleting products or services. LEA is under no obligation to acquire added products or services, and has no ability under the DPA to prevent deletion of products or services. Subject to the limitations in this section, an Addendum is automatically incorporated into this DPA when LEA is notified by Provider, in accordance with the notification provisions of this DPA, of the Addendum's existence and contents.

#### 1.3 Student Data to Be Provided.

In order to perform the services, the Provider shall process Student Data as identified by the Provider in the Schedule of Data, attached hereto as Exhibit "B". Student Data may be provided by the LEA or created by students, as set forth fully in the definition of Student Data in Exhibit "C". If a Provider needs to update any

information on Exhibit “B”, they may do so by completing the Addendum template provided by the A4L Community and sending a copy to the LEA.

Provider may delete data elements from Exhibit “B” if they are no longer used by the Provider.

Provider must add data elements to Exhibit “B”, when a material change has occurred, regardless of whether the added data elements are either one of the following:

1. used to better deliver the original products or services listed in the DPA, or
2. used to deliver added products or services that result in new or enhanced capabilities, new modules, technology advancements and or service categories relating to the listed products or services that Provider did not have at the time the DPA was signed. Such new products or services must be designated in the Addendum template as changes to Exhibit “A”.

The Provider must notify the LEA, in accordance with the notification provisions of this DPA, of the existence and contents of an Addendum modifying Exhibit “B”. The LEA will have thirty (30) days from receipt to object to the Addendum. If no written objection is received it will become incorporated into the DPA between the parties.

## 1.4 DPA Definitions.

Capitalized terms used in this DPA shall have the meanings set forth in Exhibit “C”. With respect to the treatment of Student Data, in the event of a conflict, definitions used in this DPA shall prevail over terms used in any other writing, including, but not limited to, the Service Agreement.

## ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

### 2.1 Student Data Property of LEA.

As between LEA and Provider, all Student Data processed by the Provider, or created by students (as set forth fully in the definition of Student Data in Exhibit “C”), pursuant to the Agreement is and will continue to be the property of and under the control of the LEA. The Provider further acknowledges and agrees that all copies of such Student Data processed by the Provider, including any modifications or additions or any portion thereof from any source, are also subject to the provisions of this DPA in the same manner as the original Student Data. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data contemplated per the Service Agreement, shall remain the exclusive property of the LEA.

### 2.2 Parent, Legal Guardian and Student Access.

The LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student (as defined in FERPA) may review Student Data and request deletion or modification, and request delivery of a copy of the Student Data. In support of this, the Provider shall establish reasonable procedures by which the LEA may access, and correct if necessary, Education Records and/or Student Data, and make a copy of the data available to the LEA or (at the LEA’s direction) to the parent, legal guardian or eligible student directly. If the LEA is not able to review or update the Student Data itself, Provider shall respond in a reasonably timely manner (and no later than thirty (30) days from the date of the request or pursuant to the time frame required under state law for an LEA to respond to a parent, legal guardian or student, whichever is sooner) to the LEA’s request for Student Data held by the Provider to view or correct as necessary.

In the event that a parent or legal guardian of a student or eligible student contacts the Provider to correct, delete, review or request delivery of a copy of any of the Student Data collected by or generated through the Services, the Provider shall refer that person to the LEA, who will follow the necessary and proper procedures regarding

the requested information. In the event that any person other than those listed contacts the Provider about any Student Data, the Provider shall refer that person to the LEA, except as provided in Section 4.4.

- 2.2.1 This NDPA does not impede the ability of students to download, export, or otherwise save or maintain their own Student Generated Content directly from Provider or for Provider to provide a mechanism for such download, export, transfer or saving to students, or the student's parent or legal guardian. Nor does it impede the ability of Providers to offer LEAs features to allow such ability.
- 2.2.2 In the event that Student Generated Content is transferred to the control of the student, parent or legal guardian, the copy of such Student Generated Content that is in the control of such person is no longer considered Student Data.

### **2.3 Subprocessors.**

Provider shall enter into a Subprocessor Agreement with all Subprocessors performing functions for the Provider in order for the Provider to provide the Services pursuant to the Service Agreement, whereby the Subprocessors agree to protect Student Data in a manner no less stringent than the terms of this DPA. Every Subprocessor Agreement must provide that the Subprocessor will not Sell the Student Data. The terms of a Subprocessor Agreement shall not be materially modified by the Subprocessor unless notice is provided to the Provider.

## **ARTICLE III: DUTIES OF LEA**

### **3.1 Provide Data in Compliance with Applicable Laws.**

LEA shall use the Services and provide Student Data in compliance with all applicable federal and state privacy laws, rules, and regulations, all as may be amended from time to time.

### **3.2 Annual Notification of Rights.**

If the LEA has a policy of disclosing Education Records and/or Student Data under FERPA (34 CFR § 99.31(a)(1)), LEA shall include a specification of criteria for determining who constitutes a School Official and what constitutes a legitimate educational interest in its annual notification of rights.

### **3.3 Reasonable Precautions.**

LEA shall employ administrative, physical, and technical safeguards designed to protect usernames, passwords, and any other means of gaining access to the Services and/or hosted Student Data from unauthorized access, disclosure, or acquisition by an unauthorized person.

### **3.4 Unauthorized Access Notification and Assistance.**

LEA shall notify Provider within seventy-two (72) hours of any confirmed Data Breach to the Services, LEA's account or any Student Data that poses a privacy or security risk. If requested by Provider, LEA will provide reasonable assistance to Provider in any efforts by Provider to investigate and respond to such Data Breach.

## ARTICLE IV: DUTIES OF PROVIDER

### 4.1 Privacy and Security Compliance.

The Provider shall comply with all laws and regulations applicable to Provider's protection of Student Data privacy and security, and at the direction of the LEA shall cooperate with any state or federal government initiated audit of the LEA's use of the Services.

### 4.2 Authorized Use.

The Student Data processed pursuant to the Services shall be used by the Provider for no purpose other than performing the Services outlined in Exhibit "A", or as instructed by the LEA.

### 4.3 Provider Employee Obligation.

Provider shall require all of Provider's employees who have access to Student Data to comply with all applicable provisions of this DPA with respect to the Student Data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee with access to Student Data pursuant to the Service Agreement.

### 4.4 No Disclosure.

Provider acknowledges and agrees that it shall not sell or disclose any Student Data or any portion thereof, including without limitation, user content or other non-public information and/or personally identifiable information contained in the Student Data.

#### 4.4.1 Exceptions to No Disclosure.

- 4.4.1.1 This prohibition against disclosure will not apply to Student Data where disclosure is directed or permitted by the LEA or this DPA.
- 4.4.1.2 The provision to not sell Student Data shall not apply to a Change of Control.
- 4.4.1.3 This prohibition against disclosure shall not apply to Student Data disclosed pursuant to a judicial order or lawfully issued subpoena or warrant.
- 4.4.1.4 This prohibition against disclosure shall not apply to Student Data disclosed to Subprocessors performing Services on behalf of the Provider pursuant to this DPA.
- 4.4.1.5 Should law enforcement or other government entities ("Requesting Party(ies)") provide a judicial order or lawfully issued subpoena or warrant to the Provider with a request for Student Data held by the Provider pursuant to the Services, the Provider shall notify the LEA in advance of a compelled disclosure to the Requesting Party.
- 4.4.1.6 Notification under 4.4.1.5 is not required if the judicial order or lawfully issued subpoena or warrant states not to inform the LEA of the request.
- 4.4.1.7 Should the LEA be presented with a judicial order or lawfully issued subpoena or warrant to disclose Student Generated Content or other Student Data, the Provider shall cooperate with the LEA in delivering such data.

- 4.4.1.8 This prohibition against disclosure shall not apply to LEA-authorized users of the Services, which may include parents and legal guardians.
- 4.4.1.9 This prohibition against disclosure shall not apply to protect the safety of users or others, if and only if, an LEA employee who has specifically been authorized to declare a health or safety emergency has done so and all requirements under 34 CFR §§ 99.31(a)(10) and 99.36 have been fulfilled by the LEA.
- 4.4.1.10 This prohibition against disclosure shall not apply to protect the integrity or security of the Service, where such disclosure is made to a Subprocessor engaged by Provider for the specific purpose of investigating a potential Data Breach as set forth in 5.4.

## 4.5 De-Identified Data

Provider agrees not to attempt to re-identify De-Identified Student Data without the written direction of the LEA. De-Identified Student Data may be used by the Provider for those purposes allowed under applicable laws, for the purposes allowed for the processing of Student Data under this DPA, as well as the following purposes: (1) assisting the LEA or other governmental agencies in conducting research and other studies; (2) research, development, and improvement of the Provider's educational sites, Services, or applications, and to demonstrate the effectiveness of the Services; and (3) for adaptive learning purpose and for customized student learning. Provider's use of De-Identified Student Data shall survive termination of this DPA or any request by LEA to return or dispose of Student Data. Except for Subprocessors, Provider agrees not to transfer De-identified Student Data to any third party unless the transfer is expressly directed or permitted by the LEA or this DPA. Such Subprocessors must be subject to equivalent terms of the DPA including this one. Prior to publishing any document that names the LEA, the Provider shall obtain the LEA's written approval of the manner in which De-Identified Student Data is presented. If Provider chooses to create De-Identified Data, its process must comply with either NIST de-identification standards or US Department of Education guidance on de-identification.

## 4.6 Disposition of Data.

Upon written request from the LEA, Provider shall dispose of or provide a mechanism for the LEA to transfer Student Data obtained under the Service Agreement, within sixty (60) days of the date of said request and according to a schedule and procedure as the Parties may reasonably agree.

If the Provider has a standard retention and destruction schedule, that schedule shall apply to Student Data as long as this DPA is active. The Provider's practice relating to retention and disposition of Student Data shall be provided to the LEA upon request.

At the termination of this DPA, the Provider shall, unless directed otherwise by the LEA, dispose of, or delete Student Data obtained by the Provider under the Agreement within sixty (60) days of termination (unless otherwise required by law). If the Agreement has lapsed or is not terminated, the Student Data shall be deleted when directed or permitted by the LEA, according to Provider's standard destruction schedule, or as otherwise required by law. The LEA may provide the Provider with special instructions for the disposition of the Student Data, by transmitting to Provider Exhibit "D", attached hereto. The duty of the Provider to dispose of or delete Student Data shall not extend to De-Identified Data or to Student-Generated Content that has been transferred or kept pursuant to Section 2.2.2.

## 4.7 Advertising Limits.

Provider is prohibited from using, disclosing, or selling Student Data to (a) inform, influence, or enable Targeted Advertising; (b) develop a profile of a student, family member/guardian or group, for any purpose other than providing the Service to LEA; or (c) for any commercial purpose other than to provide the Service to the LEA, or as authorized by the LEA or the parent/guardian. Targeted Advertising is strictly prohibited. However, this section does not prohibit Provider from using Student Data (i) for adaptive learning or customized student learning (including generating personalized learning recommendations); or (ii) to make product recommendations to account holders that are not considered Targeted Advertising (this exception does not apply where the Provider is relying on the LEA to provide consent on behalf of the parent under COPPA); or (iii) to notify account holders about new education product updates, features, or Services that are not considered Targeted Advertising or from otherwise using Student Data as permitted in this DPA and its accompanying exhibits.

Before making product recommendations under section (ii) above, Provider must disclose the existence of those recommendations to LEA in writing, in sufficient detail that LEA can fulfill any obligations under applicable law (e.g. PPRA).

## ARTICLE V: DATA SECURITY AND BREACH PROVISIONS

### 5.1 Data Storage.

If Student Data is stored outside the United States, Provider will provide a list of Countries where data is stored, in Exhibit "B".

### 5.2 Security Audits.

Provider will conduct a security audit or assessment no less than once per year, and upon a Data Breach. Upon 10 days' notice and execution of confidentiality agreement, Provider will provide the LEA with a copy of the audit report, subject to reasonable and appropriate redaction.

### 5.3 Data Security.

The Provider agrees to utilize administrative, physical, and technical safeguards designed to protect Student Data from unauthorized access, disclosure, acquisition, destruction, use, or modification. The Provider shall adhere to any applicable law relating to data security of Student Data. The Provider shall implement an adequate Cybersecurity Framework that incorporates one or more of the nationally or internationally recognized standards set forth in Exhibit "F". Additionally, Provider may choose to further detail its security programs and measures in Exhibit "F". Provider shall provide, in the Preamble to the DPA, contact information of an employee who LEA may contact if there are any data security concerns or questions.

### 5.4 Data Breach.

In the event that Provider confirms a Data Breach, the Provider shall provide notification to LEA within seventy-two (72) hours of confirmation of the Data Breach, unless notification within these time limits would disrupt investigation of the Data Breach by law enforcement. In such an event, notification shall be made within a reasonable time after the Data Breach. Provider shall follow the following process:

- (1) The Data Breach notification described above shall include, at a minimum, the following information to the extent known by the Provider and as it becomes available:
  - (a) The name and contact information of the Provider subject to this section,

- (b) the date of the notice,
  - (c) the date of the Data Breach, the estimated date of the Data Breach, or the date range within which the Data Breach occurred,
  - (d) Whether the notification was delayed as a result of a law enforcement investigation, if legally permissible to share that information,
  - (e) A general description of the Data Breach, if that information is possible to determine at the time the notice is provided,
  - (f) A description of the Student Data reasonably believed to have been the subject of the Data Breach; and
  - (g) Identification of impacted individuals.
- (2) Provider agrees to adhere to all applicable federal and state laws with respect to a Data Breach related to the Student Data, including any required responsibilities and procedures for notification and mitigation of any such Data Breach.
- (3) Provider further acknowledges and agrees to have a written Data Breach response plan that is consistent with applicable industry standards and federal and state law for responding to a Data Breach, involving Student Data and agrees to provide LEA, upon reasonable written request, with a summary of said written Data Breach response plan.
- (4) LEA shall provide notice and facts surrounding the Data Breach to the affected students, parents, or guardians.
- (5) In the event of a Data Breach originating from LEA's use of the Service or otherwise a result of LEA's actions or inactions, Provider shall reasonably cooperate with LEA to the extent necessary to expeditiously secure Student Data and may request costs incurred as a result of such Data Breach.

## CONTRACT TERMS

**Term and Termination.** In the event that either Party seeks to terminate this DPA, they may do so by written notice if the Service Agreement has lapsed or has been terminated. Either party may terminate this DPA and any Service Agreement or contract if the other party breaches any terms of this DPA. This DPA shall stay in effect for as long as the Provider retains the Student Data, as set forth in section Article IV, Section 4.6. In the case of a “Change of Control” the LEA has the authority to terminate the DPA if it reasonably believes that the successor cannot uphold the terms and conditions herein or having a contract with the successor would violate the LEA’s policies or state or federal law.

**Data Disposition on Service Agreement Termination.** If the Service Agreement is terminated, the Provider shall dispose of all of LEA’s Student Data pursuant to Article IV, Section 4.6 of the Standard Clauses.

**Notices.** All notices or other communication required or permitted to be given hereunder must be made in writing and may be given via e-mail transmission, or first-class mail, or mutually agreed upon method sent to the designated representatives documented in the Preamble.

**Priority of Agreements.** This DPA shall govern the treatment of Student Data in order to comply with the privacy protections, including those found in FERPA and all applicable privacy statutes identified in this DPA. With respect to the treatment of Student Data only, in the event there is conflict between the terms of the DPA and the Service Agreement, Terms of Service, Privacy Policies, or with any other bid/RFP, license agreement, or writing, the terms of this DPA shall apply and take precedence. In the event of a conflict between Exhibit “H”, the SDPC Standard Clauses, and/or the Supplemental State Terms in Exhibit “G”, Exhibit “H” will control, followed by Exhibit “G”. Except as described in this paragraph herein, all other provisions of the Service Agreement shall remain in effect.

**Entire Agreement.** This DPA and the Service Agreement (“the Agreement”) constitute the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior communications, representations, or agreements, oral or written, by the Parties relating thereto. This DPA may be amended and the observance of any provision of this DPA may be waived (either generally or in any particular instance and either retroactively or prospectively) only with the signed written consent of both Parties.

**Severability.** Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the Parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.

**Governing Law; Venue and Jurisdiction.** This DPA will be governed by and construed in accordance with the laws of the state of the LEA, without regard to conflicts of law principles. Each party consents and submits to the sole and exclusive jurisdiction to the state and federal courts for the county of the LEA for any dispute arising out of or relating to this DPA or the transactions contemplated hereby.

**Successors Bound.** This DPA is and shall be binding upon the respective successors in interest to Provider in the event of a Change of Control. In the event of a Change of Control, the Provider shall provide written notice to the LEA no later than sixty (60) days after the closing date of such Change of Control. Such notice shall include

a written, signed assurance that the successor will assume the obligations of the DPA and any obligations with respect to Student Data within the Service Agreement.

**Authority.** Each signatory confirms they are authorized to bind their institution to this DPA in its entirety.

**Waiver.** No delay or omission by either party to exercise any right here under shall be construed as a waiver of any such right and both parties reserve the right to exercise any such right from time to time, as often as may be deemed expedient.

## EXHIBIT A: PRODUCTS AND SERVICES

This DPA covers access to and use of Mind Research Institute's existing Services that collect, process, or transmit Student Data, as identified below:

The vendor will provide digital licenses for student and teacher to access ST Math.

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## EXHIBIT B: SCHEDULE OF STUDENT DATA

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

Data Elements Collected by Product (required and optional):

Category of Data / Data Elements	ST Math	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]
<b>Application Technology MetaData</b>							
IP Addresses of users, use of cookies, etc.	Yes						
Other application technology metadata	Yes						
<i>If 'Other' checked, please specify below checked box:</i>							
<b>Application Use Statistics</b>							
Meta data on user interaction with application	Yes						
<b>Assessment</b>							
Standardized test scores	Yes						
Observation data	No						
Voice recordings	No						
Other assessment data	No						
<i>If 'Other' checked, please specify below checked box:</i>							
<b>Attendance</b>							
Student school (daily) attendance data	No						

STANDARD STUDENT DATA PRIVACY AGREEMENT

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Category of Data / Data Elements	ST Math	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]
Student class attendance data	No						
<b>Communication</b>							
Online communication captured (emails, blog entries)	No						
<b>Conduct</b>							
Conduct or behavioral data	No						
<b>Demographics</b>							
Data of birth	No						
Place of birth	No						
Gender	No						
Ethnicity or race	No						
Language information (native, or primary language spoken by student)	No						
Other demographic information	No						
<i>If 'Other' checked, please specify below checked box:</i>							
<b>Enrollment</b>							
Student school enrollment	Yes						
Student grade level	Yes						
Homeroom	Yes						
Guidance counselor	No						
Specific curriculum programs	No						
Year of graduation	No						

STANDARD STUDENT DATA PRIVACY AGREEMENT

Version 2.0

Category of Data / Data Elements	ST Math	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]
Other enrollment information	No						
<i>If 'Other' checked, please specify below checked box:</i>							
<b>Parent/Guardian Contact Information</b>							
Address	No						
Email	No						
Phone	No						
<b>Parent/Guardian ID</b>							
Parent ID number (created to link parents to students)	NO						
<b>Parent/Guardian Name</b>							
First and/or last	No						
<b>Schedule</b>							
Student scheduled courses	Yes						
Teacher names	Yes						
<b>Special Indicator</b>							
English language learner information	No						
Low-income status	No						
Medical alerts/health data	No						
Student disability information	No						
Specialized education Services (IEP or 504)	No						
Living situations (homeless/foster care)	No						
Other indicator information	No						

STANDARD STUDENT DATA PRIVACY AGREEMENT

Version 2.0

Category of Data / Data Elements	ST Math	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]	[enter product(s) name]
<i>If 'Other' checked, please specify below checked box:</i>							
<b>Student Contact Information</b>							
Address	No						
Email	No						
Phone	No						
<b>Student Identifiers</b>							
Local (school district) ID number	Yes						
State ID number	No						
Provider/app assigned student ID number	Yes						
Student app username	Yes						
Student app passwords	Yes						
<b>Student Name</b>							
First and/or last	YEs						
<b>Student In App Performance</b>							
Program/application performance (e.g. typing program – student types 60 wpm, reading program – student reads below grade level)	Yes						
<b>Student Program Membership</b>							
Academic or extracurricular activities a student may belong to or participate in	No						

<b>Student Survey Responses</b>							
Student responses to surveys or questionnaires	No						
<b>Student Work</b>							
Student generated content; writing, pictures, etc.	No						
Other student work data	No						
<i>If 'Other' checked, please specify below checked box:</i>	No						
<b>Transcript</b>							
Student course grades	No						
Student course data	No						
Student course grades/performance scores	No						
Other transcript data	No						
<i>If 'Other' checked, please specify below checked box:</i>							
<b>Transportation</b>							
Student bus assignment	No						
Student pick up and/or drop off location	No						
Student bus card ID number	No						
Other transportation data	No						

STANDARD STUDENT DATA PRIVACY AGREEMENT

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<p><i>If 'Other' checked, please specify below checked box:</i></p>							
<p><b>Other</b></p>							
<p>Other data collected</p>	<p>N/A</p>						
<p><i>If 'Other' checked, please list each additional data element used, stored, or collected by your application below checked box:</i></p>							
<p><b>None</b></p>							
<p>No student data collected at this time. Provider will immediately notify LEA if this designation is no longer applicable.</p>	<p>N/A</p>						

If Student Data is stored outside the United States, Provider shall list below the Countries where data is stored:

## EXHIBIT C: DEFINITIONS

**Change of Control:** Any merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of Provider or of the portion of Provider that performs the Services in the Service Agreement.

**Contextual Advertising:** Contextual advertising is the delivery of advertisements based upon a current visit to a Web page or a single search query, without the collection and retention of data about the consumer's online activities over time.

**De-Identified Data:** Records and information are considered to be De-Identified when all personally identifiable information has been removed or obscured, such that the remaining information does not reasonably identify a specific student, including, but not limited to, any information that, alone or in combination is linkable to a specific student.

**Data Breach:** An unauthorized release, access to, disclosure or acquisition of Student Data that compromises the security, confidentiality or integrity of the Student Data maintained by the Provider in violation of applicable state or federal law.

**Educational Records:** Educational Records shall have the meaning set forth under FERPA 20 U.S. C. 12 32 g(a)(5)(A). For additional context see also the 'Student Data' definition.

**LEA:** For the purpose of this DPA, the LEA is the educational entity that is a Party to this Agreement. An LEA can be a state agency, an educational service agency, a charter school or school system or a private school or school system, in addition to the federal definition of Local Education Agency (LEA).

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

**Originating LEA:** An educational entity otherwise meeting the definition of LEA that originally executes the DPA in its entirety (including the marked checkbox enabling Exhibit "E") with the Provider.

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

**Service Agreement:** Refers to the quote, corresponding contract, purchase order or terms of service and/or terms of use.

**Student Data:** Student Data includes any data, whether gathered, created or inferred by Provider or provided by LEA or its users, students, or students' parents/guardians, for a school purpose, that is descriptive of the student including, but not limited to, information in the student's Educational Record, persistent unique identifiers, or any other information or identification number that would provide information about a specific student. Student Data includes Metadata that has not been stripped of all direct and indirect identifiers. Student Data further includes "Personally Identifiable Information (PII)," as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law. Student Data shall constitute Education Records for the purposes of this DPA, and for the purposes of federal, state, and local laws and regulations. Student Data as specified in Exhibit "B" is confirmed

to be collected or processed by the Provider pursuant to the Services. Student Data shall not include properly De- Identified Data or anonymous usage data regarding a student's or LEA's use of Provider's Services.

**Student Generated Content:** The term "Student Generated Content" means materials or content created by a student in the services including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, videos, and account information that enables ongoing ownership of student content. "Student Generated Content" does not include student responses to a standardized assessment where student possession and control would jeopardize the validity and reliability of that assessment.

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

**Subprocessor Agreement:** An agreement between Provider and a third party Subprocessor. A Subprocessor Agreement includes either a written agreement or an acceptance of terms and conditions (e.g., click through agreements).

**Subscribing LEA:** An educational entity otherwise meeting the definition of LEA that was not party to the original Service Agreement and who accepts the Provider's General Offer of Privacy Terms by executing Exhibit "E".

**Targeted Advertising:** Targeted Advertising means presenting an advertisement to a student where the selection of the advertisement is based on Student Data or inferred over time from the usage of the Provider Internet web site, online service or mobile application by such student or the retention of such student's online activities or requests over time for the purpose of targeting subsequent advertisements. "Targeted Advertising" does not include Contextual Advertising.

# EXHIBIT D: SPECIAL INSTRUCTIONS FOR DISPOSITION OF DATA

After this DPA takes effect, if the LEA has special requirements for the disposition of Student Data that are not expressed in 4.6 Disposition of Data, the LEA may fill in this form and deliver it to the Provider.

**The Provider and the LEA must not fill in this form at the initiation of the DPA.**

The Provider shall act on Exhibit "D" from the designated representative of the LEA or their designee (Preamble or Exhibit "E" for Subscribing LEA).

**[Insert Name of District or LEA]** ("LEA") instructs Provider to dispose of Student Data obtained by Provider pursuant to the terms of the DPA between LEA and Provider. The terms of the Disposition are set forth below:

### 1. Extent of Disposition

Disposition is partial. The scope of Student Data to be disposed of is set forth below or found in an attachment to this Directive:  
**[Insert categories of Student Data here]**

Disposition is complete. Disposition extends to all Student Data.

### 2. Nature of Disposition

Disposition shall be by destruction or deletion of Student Data.

Disposition shall be by a transfer of Student Data. The Student Data shall be transferred to the following site as follows:  
**[Insert or attach special instructions]**

### 3. Timing of Disposition

Student Data shall be disposed of by the following date:

As soon as commercially practicable

On Provider's standard destruction schedule

By **[Insert Date]**

### 4. De-Identified Data

The Provider certifies that they have De-Identified the data, as defined elsewhere in this Agreement, and disposed of all copies of Student Data that were not De-Identified in accordance with this Schedule and the DPA. The Provider will notify LEA in accordance with the notification requirements of the DPA using this form.  
As of **[Insert Date]**

### 5. Other:

#### Signature(s)

DocuSigned by:  
**Michelle Pratt**  
C14D4C0B7D4F422...  
Authorized Representative of LEA

#### Notice of Verified Disposition of Data

3/10/2025 | 3:45 PM EDT **Karen Talbert**  
Karen Talbert (Feb 11, 2025 15:05 EST)  
Date Authorized Representative of Provider Date

## EXHIBIT E: GENERAL OFFERS OF TERMS

### Page 1 of 2: OFFER OF TERMS

Provider and the Subscribing LEA (named below) agree by signing this General Offer of Privacy Terms (“General Offer”) that they are bound by the same terms as the DPA between Provider and [redacted] (“Originating LEA”) dated [redacted].

Provider and Subscribing LEA agree that the information below will be replaced throughout the DPA with the information specific to the Subscribing LEA filled in below for the Subscribing LEA. This General Offer shall extend only to the terms set forth in this DPA and shall not necessarily bind Provider or Subscribing LEA to any other terms entered into between Provider and Originating LEA. Any commercial terms, such as price, term, or schedule of Services, relating to Subscribing LEA’s use of the Provider’s Services shall be determined solely between Provider and Subscribing LEA.

If Provider makes changes to Exhibit “A” or Exhibit “B” in accordance with sections 1.2 and 1.3 respectively, Provider must complete the Addendum template provided by the A4L Community and notify the Originating LEA and all Subscribing LEAs in accordance with the notification provisions of this DPA, of the Addendum’s existence and contents. With regard to a Subscribing LEA, an Addendum is automatically incorporated into this DPA when Subscribing LEA is notified by Provider. If an Addendum modifies Exhibit “B”, the LEA will have thirty (30) days from receipt to object. If no written objection is received it will become incorporated into the DPA between the parties.

The Provider may withdraw the General Offer (for future use or for LEAs that have not already accepted it) in the event of: (1) a material change in the applicable privacy statutes; or (2) a material change in the Services and products listed in the Service Agreement. Notification of a withdrawal shall be submitted to [ndpa\\_requests@A4L.org](mailto:ndpa_requests@A4L.org).

Subscribing LEAs shall send the signed Exhibit “E” to Provider at the following email address: [redacted]

The below signatory confirms they are authorized to bind their institution to this DPA as in its entirety.

**RESOURCE NAME(S):**

[ Insert all Resource Names covered by Originating DPA ]  
[ ]  
[ ]  
[ ]

**PROVIDER:** [ Insert Name of Provider ]

Signed By: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title/Position: \_\_\_\_\_

**Exhibit “E” (continued)**

Originating LEA: \_\_\_\_\_  
Resource Names: \_\_\_\_\_  
Provider Name: \_\_\_\_\_

**Page 2 of 2: [INSERT NAME] “SUBSCRIBING LEA”**

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA and the Provider shall therefore be bound by the same terms of this DPA for the term of the DPA between the Originating LEA and the Provider. **\*\*PRIOR TO ITS EFFECTIVENESS, SUBSCRIBING LEA MUST DELIVER NOTICE OF ACCEPTANCE TO PROVIDER.\*\*** Please note, by signing this Exhibit you are also agreeing to any language that may be included in Exhibits to the Originating DPA beyond this Exhibit “E”. The below signatory confirms they are authorized to bind their institution to this DPA as in its entirety.

Subscribing LEA: **[Insert Name of Subscribing LEA]**

Signed By: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title/Position: \_\_\_\_\_  
School District Name: \_\_\_\_\_

**Designated Representative of LEA:**

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

**Notices to Subscribing LEA:** The Provider and Subscribing LEA are each responsible to promptly notify the other Party of changes to the notice information.

**Security Notices to Subscribing LEA**

- [ Subscribing LEA Security Name ]
- [ Subscribing LEA Security Role ]
- [ Subscribing LEA Security Postal Address ]
- [ Subscribing LEA Security E-mail Address ]

- [ Subscribing LEA Name ]
- [ Subscribing LEA Role ]
- [ Subscribing LEA Postal Address ]
- [ Subscribing LEA E-mail Address ]

With a copy to (if provided):

- [ Subscribing LEA Legal Counsel ]
- [ Subscribing LEA Legal Counsel Postal Address ]
- [ Subscribing LEA Legal Counsel E-mail Address ]

## EXHIBIT F: ADEQUATE CYBERSECURITY FRAMEWORKS

Provider must mark one or more frameworks with which it complies.

The Provider may change which framework it complies with without invalidating or changing the DPA, but must notify the LEA of such change in accordance with the notification requirements of the DPA.

FRAMEWORK(S)	
	Global Education Security Standard - <a href="https://sdpc.a4l.org/gess/">https://sdpc.a4l.org/gess/</a>
X	NIST Cybersecurity Framework (CSF)
	NIST SP 800-53 Security and Privacy Controls for Information systems and organizations
	NIST SP 800-171 Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations
	ISO 27000 series, Standards for implementing organization security and management practices
	CIS Center for Internet Security Critical Security Controls
	Cybersecurity Maturity Model Certification (CMMC, ~FAR/DFAR)

This space is provided for optional security programs and measures as noted in section 5.3:

## EXHIBIT G: Supplemental SDPC State Terms for [Virginia]

**LEA and Provider agree to the following additional or replacement terms and modifications:**

**Division Data** as referenced in Exhibit G includes all business, employment, operational and Personally Identifiable Information that LEA provides to Provider and that is not intentionally made generally available by the Division on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and student, employees, and personnel data, user generated content and metadata but specifically excludes Provider Data (as defined below).

For purposes of this agreement, Student Data as defined in the DPA shall include any employee records and/or employee information that LEA provides to Provider, and the following definition of Student Data in the DPA shall be replaced with the following:

If applicable, student Data includes any data, whether gathered, created or inferred by Provider or provided by LEA or its users, **employees**, students, or students' parents/guardians, for a school purpose, that is descriptive of the student **and/or employee** including, but not limited to, information in the student's Educational Record **and/or the employee's personnel record**, persistent unique identifiers, or any other information or identification number that would provide information about a specific student **and/or employee**. Student Data includes Metadata that has not been stripped of all direct and indirect identifiers. Student Data further includes "Personally Identifiable Information (PII)," as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law. Student Data shall constitute Education Records for the purposes of this DPA, and for the purposes of federal, state, and local laws and regulations. Student Data as specified in Exhibit "B" is confirmed to be collected or processed by the Provider pursuant to the Services. Student Data shall not include properly De-Identified Data or anonymous usage data regarding a student's **or employee's** or LEA's use of Provider's Services.

In the event that Provider uses Artificial Intelligence in its platform and as a part of its services to Division, then any additional and/or third party terms and conditions shall not be applicable unless separately negotiated and added on as an Amendment to this Agreement.

**Provider must comply with all applicable provisions of Virginia law and the Code of Virginia including but not limited to the following:**

1. The requirements and operative definitions found in Code of Virginia § 22.1-289.01.
2. Virginia utilizes the FERPA definition of Personally Identifiable Information (PII).
3. Notification of Data Breach: In order to ensure the LEA's ability to comply with its reporting requirements under Virginia Code §2.2-5514(C), Provider shall provide initial notification to the LEA as soon as reasonably practical, and at a minimum within 48 clock hours, where the service provider reasonably expects or confirms Division Data may have been disclosed in a data breach. In addition to this initial notification, Provider shall comply with all relevant requirements and deadlines outlined in this DPA, Article V, Section 4: Data Breach.