

June 8, 2021

Panorama Education  
Attn: Vinutha Kumar  
24 School Street, 4<sup>th</sup> Floor  
Boston, MA 02108

Reference: RFP#2000003156 – Social Emotional Learning Universal Screener

Dear Vinutha:

**Acceptance Agreement**

**Contract Number: 4400010525**

This acceptance agreement signifies a contract award to Panorama Education for Social Emotional Learning Universal Screener. The period of the contract shall be from date of award through June 30, 2025 with the option to renew for three (3) one-year periods.

The contract award shall be in accordance with:

1. This Acceptance Agreement;
2. The Terms and Conditions of RFP# 2000003156, and all addenda;
3. Your proposal dated October 13, 2020; and
4. The attached summarized Pricing Schedule.

Please note that this is not an order to proceed. A purchase order, which constitutes your notice to proceed, will be issued to your company. Please provide your Insurance Certificate according to Special Provisions Paragraph 22 within ten (10) 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/cregister](http://www.fairfaxcounty.gov/cregister).

Sincerely,



Michelle R. Pratt  
Director

MRP/bjy

**MEMORANDUM OF NEGOTIATION**

RFP# 2000003156 – Social Emotional Learning Universal Screener

The County of Fairfax, Fairfax County Public Schools (hereinafter called the County or FCPS) and Panorama Education (hereinafter called Panorama) hereby agree to the following in the execution of Contract# 4400010525. The final contract contains the following items:

- a. Fairfax County’s Request for Proposal 2000003156 and all Addenda;
- b. Panorama Education’s Technical and Business proposal as amended by this Memorandum of Negotiations;
- c. Panorama Education’s Best and Final Offer (BAFO) dated April 27, 2021 as reflected below;
- d. Response to Points of Negotiation dated April 6, 2021, as amended, and reflected below.
- e. The Memorandum of Negotiations; and
- f. All subsequent amendments to the contract.

The following are to be included in the contract:

- 1. Agreed upon options for pricing:

	<b>Year 1 2021-2022</b>	<b>Year 2 2022-2023</b>	<b>Year 3 2023-2024</b>	<b>Year 4 2024-2025</b>	<b>Year 5 2025-2026</b>
<b>Cohort 1</b> 38,000 students	Screening + Interventions	Screening, Diagnostic, PM and Interventions	Screening, Diagnostic, PM and Interventions	Screening, Diagnostic, PM and Interventions	Screening, Diagnostic, PM and Interventions
<b>Cohort 2</b> 76,000 students		Screening + Interventions	Screening, Diagnostic, PM and Intervention	Screening, Diagnostic, PM and Interventions	Screening, Diagnostic, PM and Interventions
<b>Cohort 3</b> 76,000 students			Screening + Interventions	Screening, Diagnostic, PM and Interventions	Screening, Diagnostic, PM and Interventions
Payment Schedule	\$89,300	\$278,540	\$478,420	\$499,700	\$499,700
Total Contract Value Over 5 Years					<b>\$1,845,660</b>

(Cost for schools to buy intervention package independently is \$1,500 per school per year)

- 2. Per the BAFO, the per-student pricing outlined is inclusive of license fee, project management and professional development, and is per year.
- 3. Per the BAFO, pricing listed is inclusive of the following professional development package.
  - a. 6 customizable, live virtual professional development sessions per year.

- b. 20 1-hour strategic advising sessions per year with a dedicated professional learning manager, as well as on-going communication and support on crafting professional learning and coaching programming based on FCPS' unique context and goals.
  - c. On-Demand Supports and Resources, including Panorama Academy, featuring embedded guides on implementing SEL, foundation-setting activities, frameworks and sample agendas for educators, and other modules for continued learning.
  - d. FCPS will have the flexibility to determine how many of the 6 live sessions will be used for all levels of train the trainers (central office, school leads, administrators).
4. Pricing listed is inclusive of collaborative work between FCPS and Panorama to finalize item and scale selection for screener, diagnostic, and progress monitoring measures. Pricing also includes collaborative work to revise measures in year two and beyond with consideration given to yearly data and implementation review and evolving needs.
5. Panorama Education will provide FCPS with access to results while the screener window is live through a nightly refresh. Once a student completes the screener, the results will be accessible the next business day.
6. Panorama Terms of Service as set forth in Attachment A are incorporated by reference and made a part hereof.

All other prices, terms, and conditions remain the same.

ACCEPTED BY:

*Katie Mallett*

\_\_\_\_\_  
Katie Mallett, Chief Financial Officer  
Panorama Education

05 / 28 / 2021

\_\_\_\_\_  
Date

*Deborah E. Scott*

\_\_\_\_\_  
Deborah E. Scott, Director  
Office of Intervention and Prevention Services

5/28/2021

\_\_\_\_\_  
Date

*Michelle Pratt*

\_\_\_\_\_  
Michelle R. Pratt, Director  
Office of Procurement Services

6/8/2021

\_\_\_\_\_  
Date

ATTACHMENT A  
Panorama Terms of Service

Panorama is an education technology company that provides a cloud-based platform-as-a-service and related support services to enable schools and school districts to analyze student and school data, measure social-emotional learning, and design and implement survey programs for students, staff and parents or authorized guardians ("Platform").

**1 RIGHT TO USE PLATFORM**

1.1 Platform. Subject to this Agreement, Panorama hereby grants FCPS (including FCPS's students, employees, and parents and authorized guardians of FCPS's students, all as applicable and described in the relevant SO, ("Authorized Users")), the limited, nonexclusive, nontransferable, non-sublicenseable right to access and use the Platform via the Internet during the Term solely for FCPS's use, in accordance with applicable laws and regulations and the Platform's intended uses as set forth in Panorama's proposal dated October 13, 2020 & and Fairfax County Public Schools Request for Proposal 2000003156 and all Addenda.

1.2 Limitations. Except as expressly permitted in the Agreement, FCPS will not and will not authorize or allow any third party to: (a) provide access to the Platform to any person who is not an Authorized User or (b) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Platform; (c) modify, translate or create derivative works based on the Platform; (d) copy, rent, lease, distribute, pledge, assign or otherwise transfer or allow any lien, security interest or other encumbrance on the Platform; (e) use the Platform for timesharing or service bureau purposes or otherwise for the benefit of a third party who is not an Authorized User; (f) hack, manipulate, interfere with or disrupt the integrity or performance of or otherwise attempt to gain unauthorized access to the Platform or its related systems, hardware or networks or any content or technology incorporated in any of the foregoing; or (g) remove or obscure any proprietary notices or labels of Panorama or its suppliers on the Platform or on any printed or digital materials provided by Panorama.

1.3 FCPS will and will instruct its Authorized Users to: (i) use the Platform to collect, record, retain, use and disclose personally identifiable information only to the extent necessary for its legitimate educational purposes and in compliance with federal, state and local laws and regulations, including without limitation obtaining any necessary consents; (ii) otherwise provide Panorama with personally identifiable information only to the extent necessary for Panorama to provide the Platform and perform its obligations under the Agreement; (iii) use reasonable efforts to prevent unauthorized access to or use of the Platform; and (iv) notify Panorama promptly of any known or suspected unauthorized access or use. FCPS will assist Panorama in all efforts to investigate and mitigate the effects of any such incident. Upon expiration or any termination for any reason of the Agreement, all rights granted to FCPS and all obligations of Panorama will immediately terminate and FCPS will promptly cease use of the Platform.

**2. LIMITATIONS OF LIABILITY**

2.1 Disclaimer of Consequential Damages. THE PARTIES HERETO AGREE THAT, NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, EXCEPT FOR LIABILITY ARISING OUT OF (A) FCPS'S USE OF THE PLATFORM OTHER THAN EXPRESSLY PERMITTED BY SECTION 1 HEREIN (RIGHT TO USE PLATFORM), AND, (B) PANORAMA'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 57b (INTELLECTUAL PROPERTY INDEMNIFICATION) OF APPENDIX A (GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS), AS APPLICABLE, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, RELIANCE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, LOST OR DAMAGED DATA, LOST PROFITS OR LOST REVENUE, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF A PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY THEREOF.

2.2 General Cap on Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EXCEPT FOR LIABILITY ARISING OUT OF (A) FCPS'S USE OF THE PLATFORM OTHER THAN EXPRESSLY PERMITTED BY SECTION 1 HEREIN (RIGHT TO USE PLATFORM), AND, (B) PANORAMA'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 57b (INTELLECTUAL PROPERTY INDEMNIFICATION) OF APPENDIX A (GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS), AS APPLICABLE, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S LIABILITY FOR ALL CLAIMS ARISING UNDER OR RELATING TO THIS AGREEMENT



Acceptance Agreement

Contract# 4400010525

Page 4 of 10

(INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THREE TIMES THE AGGREGATE FEES PAYABLE BY FCPS TO PANORAMA DURING THE TERM OF THIS AGREEMENT. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

**3. INTELLECTUAL PROPERTY**

3.1 FCPS Data. As between FCPS and Panorama, FCPS owns all data input into the Platform, or otherwise provided to Panorama, by FCPS and Authorized Users, including (a) data that constitutes personally identifiable information (as defined under FERPA), such as student survey responses reported on an individual level, ("FCPS PII") and (b) any other data and content input into the Platform, or otherwise provided to Panorama, by FCPS and Authorized Users or on their behalf, such as survey questions, ("Non-PII" and together with PII "FCPS Data"). FCPS hereby grants Panorama a nonexclusive, worldwide, royalty-free, fully paid up, sublicenseable (through multiple tiers): (i) right and license during the Term to copy, distribute, display, create derivative works of and use FCPS Data to perform Panorama's obligations under this Agreement; and (ii) perpetual, irrevocable right and license to copy, modify and use FCPS PII to create aggregated, non-personally identifiable data sets ("Blind Data") and copy, distribute, display, create derivative works of and use Blind Data for benchmarking, research or development purposes, including published research. . FCPS reserves any and all right, title and interest in and to FCPS Data other than the licenses therein expressly granted to Panorama under this Agreement.

3.2 Panorama Intellectual Property. Panorama retains all right, title and interest in and to the Platform, including but not limited to learning content, teaching materials, survey questions, feedback and input from FCPS with respect to the Platform ("Feedback"), underlying research and methodologies (by whomever produced except to the extent FCPS produced such material other than Feedback), all copies and parts of any of the foregoing, and all intellectual property rights therein. Panorama grants no, and reserves any and all, rights other than the rights expressly granted to FCPS under this Agreement with respect to the Platform.

**Attachment B**

**CONFIDENTIALITY PROVISIONS  
STUDENT RECORDS**

**THIS ADDENDUM**, executed and effective as of the 28th day of May, 2021, by and between Panorama Education, a corporation organized and existing under the laws of Delaware (the "Company"), and the **FAIRFAX COUNTY SCHOOL BOARD**, a public body corporate and politic organized and existing under the laws of the Commonwealth of Virginia (the "School Board"), recites and provides as follows.

**Recitals**

The Company and the School Board are parties to a certain agreement entitled Social Emotional Learning Universal Screener of even date herewith (the "Agreement"). In connection with the execution and delivery of the Agreement, the parties wish to enter into this Addendum in order to clarify and make certain modifications to the terms and conditions set forth therein.

The Company and the School Board agree that the purpose of such terms and conditions is to ensure compliance with the Family Educational Rights and Privacy Act ("FERPA"), including but not limited to (i) the identification of Company as an entity acting for the School Board in its performance of functions that a School Board employee otherwise would perform; and (ii) the establishment of procedures for the protection of confidential student records, including procedures regarding security and security breaches.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is acknowledged hereby, the parties agree as follows.

**Agreement**

The Agreement is amended hereby as follows:

1. The following provisions shall be deemed to be included in the Agreement and, in the event of a conflict or ambiguity between the Agreement and this Addendum, the terms of this Addendum will in all events govern and control:

**Confidentiality Obligations Applicable to Certain FCPS Student Records.** The Company hereby covenants and agrees that it shall maintain, in strict confidence and trust, all FCPS student records containing either (1) non-directory information of any kind, whether provided by or created for FCPS pursuant to this contract, or (2) directory information as to which the eligible student or his family has opted out of disclosure (collectively, "FCPS Confidential Student Records").

The Company shall cause each officer, director, employee and other representative who shall have access to FCPS Confidential Student Records during the term of the Agreement (collectively, the "Authorized Representatives") to maintain in strict confidence and trust all FCPS Confidential Student Records. The Company shall take all reasonable steps to insure that no FCPS Confidential Student Records are disclosed to any person or entity except those who (i) are Authorized Representatives of the Company performing functions for FCPS under the Agreement and have agreed to be bound by the terms of this Addendum; (ii) are authorized representatives of FCPS, or (iii) are entitled to access



such FCPS Confidential Student Records from the Company pursuant to federal and/or Virginia law. The Company shall use FCPS Confidential Student Records, and shall take all reasonable steps necessary to ensure that its Authorized Representatives shall use such records, solely for purposes related to and in fulfillment of the performance by the Company of its obligations pursuant to the Agreement.

The Company shall: (i) designate one of its Authorized Representatives to be responsible for ensuring that the Company and its Authorized Representatives maintain the FCPS Confidential Student Records as confidential in accordance with this Addendum; (ii) train the other Authorized Representatives with regard to their confidentiality responsibilities hereunder and pursuant to federal and Virginia law; and (iii) maintain at all times a list of Authorized Representatives with access to FCPS Confidential Student Records.

**Other Security Requirements.** The Company shall maintain all technologies, policies, procedures and practices necessary to secure and protect the confidentiality and integrity of FCPS Confidential Student Records, including procedures to (i) restrict access to such records in accordance with the Agreement and this Addendum; (ii) establish user IDs and passwords as necessary to protect such records; (iii) protect all such user passwords from detection and unauthorized use; (iv) prevent hostile or unauthorized intrusion that could compromise confidentiality, result in data corruption, or deny service; (v) prevent and detect computer viruses from spreading to disks, attachments to e-mail, downloaded files, and documents generated by word processing and spreadsheet programs; (vi) minimize system downtime; (vii) notify FCPS of planned system changes that may impact the security of FCPS Confidential Student Records; (viii) return or destroy FCPS Confidential Student Records that exceed specified retention schedules; (ix) permit periodic security audits by FCPS or designated third party using applicable regulations and industry best practice standards as benchmarks, and make commercially reasonable efforts to remediate the vulnerabilities discovered; and (x) in the event of system failure, enable immediate recovery of FCPS records to the previous business day.

In the event of a security breach, the Company shall (i) immediately take action to close the breach; (ii) notify FCPS within 2 business days after Company's first knowledge of the breach, the reasons for or cause of the breach, actions taken to close the breach, and identify the FCPS Confidential Student Records compromised by the breach; (iii) return compromised FCPS Confidential Student Records for review; (iv) provide communications on the breach to be shared with affected parties and cooperate with FCPS efforts to communicate to affected parties by providing FCPS with prior review of press releases and any communications to be sent to affected parties; (v) take all legally required, reasonable, and customary measures in working with FCPS to remediate the breach which may include toll free telephone support with informed customer services staff to address questions by affected parties and/or provide monitoring services if necessary given the nature and scope of the disclosure; (vi) cooperate with FCPS by providing information, records and witnesses needed to respond to any government investigation into the disclosure of such records or litigation concerning the breach; and (vii) provide FCPS with notice within 2 business days after notice or service on Company, whichever occurs first, of any lawsuits resulting from, or government investigations of, the Company's handling of FCPS records of any kind, failure to follow security requirements and/or failure to safeguard confidential information. The Company shall provide satisfactory documentation of its compliance with the security requirements of this provision prior to performing services under the Agreement. The Company's

compliance with the requirements of this provision is subject to verification by FCPS personnel or its agent at any time during the term of the Agreement.

**Applicability of Confidentiality and Security Provisions to Non-Confidential Records**

To the extent that FCPS provides non-confidential information to Company under this Agreement, such as student records containing only directory information as to which no opt-out has been filed, de-identified student information, and FCPS records not pertaining to students, the Confidentiality and Security paragraphs set forth in this Addendum shall not apply, *provided that* the notice obligation under subsection (vii) of the preceding paragraph shall apply to lawsuits and investigations involving FCPS records of any kind.

**Disposition of FCPS Confidential Student Records Upon Termination of Agreement**

Upon expiration of the term of the Agreement, or upon the earlier termination of the Agreement for any reason, the Company covenants and agrees that it promptly shall deliver to the School Board, and shall take all reasonable steps necessary to cause each of its Authorized Representatives promptly to deliver to the School Board, all FCPS Confidential Student Records. The Company hereby acknowledges and agrees that, solely for purposes of receiving access to FCPS Confidential Student Records and of fulfilling its obligations pursuant to this provision and for no other purpose (including without limitation, entitlement to compensation and other employee benefits), the Company and its Authorized Representatives shall be deemed to be school officials of the School Board, and shall maintain FCPS Confidential Student Records in accordance with all federal state and local laws, rules and regulations regarding the confidentiality of such records. The non-disclosure obligations of the Company and its Authorized Representatives regarding the information contained in FCPS Confidential Student Records shall survive termination of the Agreement. The Company shall indemnify and hold harmless the School Board from and against any loss, claim, cost (including attorneys' fees) or damage of any nature arising from or in connection with the breach by the Company or any of its officers, directors, employees, agents or representatives (including the Authorized Representatives) of any provision of this Addendum.

**Certain Representations and Warranties.** The Company hereby represents and warrants as follows: (i) the Company has full power and authority to execute the Agreement and this Addendum and to perform its obligations hereunder and thereunder; (ii) the Agreement and this Addendum constitute the valid and binding obligations of the Company, enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy or similar laws affecting the rights of creditors and general principles of equity; and (iii) the Company's execution and delivery of the Agreement and this Addendum, and compliance with their respective terms, will not violate or constitute a default under, or require the consent of any third party to, any agreement or court order to which the Company is a party or by which it may be bound.

**Governing Law; Venue.** Notwithstanding any provision contained in the Agreement to the contrary, (i) the Agreement, as amended hereby, shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to conflict of laws principles; and (ii) any dispute arising under or in connection with the Agreement, as amended hereby, which is not otherwise resolved by the parties hereto



Acceptance Agreement  
Contract# 4400010525  
Page 8 of 10

shall be decided by a court of competent jurisdiction located in the Commonwealth of Virginia.

**Termination.** This Addendum shall remain in force until notification to terminate is issued by FCPS. At time of termination, vendor is to follow regulations for Disposition of FCPS Confidential Student Records Upon Termination of Agreement as stated above.

Acceptance Agreement  
Contract# 4400010525  
Page 9 of 10

**IN WITNESS WHEREOF**, the parties hereto have caused this Addendum to be executed by their duly authorized officers effective as of the date first written above.

**PANORAMA EDUCATION**

By: *Katie Mallett*  
Katie Mallett  
Chief Financial Officer

**FAIRFAX COUNTY SCHOOL BOARD**





By: *Michelle Pratt*  
Michelle R. Pratt  
Director, Office of Procurement

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## Document History

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