



QUEEN ANNE'S COUNTY PUBLIC SCHOOLS

Where Our Future Begins

STUDENT DATA SHARING ADDENDUM:

WHEREAS, QACPS, as a government entity is required when entering into agreements with other parties to follow all applicable laws and regulations, including those related to data privacy and security; accessibility; and records retention.

WHEREAS, this Addendum applies to Vendor's accessing, managing/storing, processing, disseminating and destruction of data provided by QACPS to Vendor. Except, as expressly stated otherwise, in the event of any conflict between the terms of this Addendum and the Agreement, including any attachments thereto, the terms of this Addendum shall take precedence.

NOW, THEREFORE, the parties hereby, for good and valuable consideration, the sufficiency of which is hereby acknowledged, agree that the terms and conditions set out below shall be added as an Addendum to the Agreement.

I. Definitions:

- A. **QACPS or CLIENT Data:** CLIENT Data includes all Personally Identifiable Information (PII) or that is linked to information or material that personally identifies an individual. Data includes, but is not limited to, first and last names, social security numbers or other identifying number issued by the federal government, driver's license number or state identification card, any financial account number, any health information, biometric data of an individual, political and religious affiliations, food purchases, user name or email address, home address, telephone number, text messages, educational and disciplinary records, criminal records, socioeconomic information, search activity and user content, and photos and video recordings.
- B. **Confidential Information:** "Confidential Information" means information, not generally known, and proprietary to the VENDOR or CLIENT or to a third party for whom the VENDOR or CLIENT is performing work, including, without limitation, information concerning any patents or trade secrets, confidential or secret designs, processes, formulae, source codes, plans, devices or material, research and development, proprietary software, analysis, techniques, materials or designs (whether or not patented or patentable), directly or indirectly useful in any aspect of the business of the VENDOR or CLIENT. Confidential Information includes all information which VENDOR or CLIENT acquires or becomes acquainted with during the period of the Agreement, whether developed by VENDOR, CLIENT or others, which VENDOR or CLIENT has a reasonable basis to believe to be Confidential, such as data that is personally identifiable to an individual student and information within the definition of "Education Record." The parties agree that the following will be treated as "Confidential Information": (i) all data provided by or on behalf of CLIENT to VENDOR; (ii) all information provided by VENDOR to CLIENT pertaining to the Services to be performed; (iii) all information which is labeled as such in writing and prominently marked as "Confidential," "Proprietary" or words

of similar meaning by either party; or (iv) business information of a party which a reasonable person would understand under the circumstances to be confidential.

II. Procedures:

- A. Data Collection and Use:** VENDOR will collect and use CLIENT Data only for the purpose of fulfilling its duties and providing services under the Agreement, and for improving services under this Addendum.
- B. Education Records:** If VENDOR has access to “education records” as defined under the Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99), the VENDOR acknowledges that for the purpose of this Agreement it will be designated as a ‘school official’ with a ‘legitimate educational interests’ and will use the data only for the purpose of fulfilling its duties under the Agreement. VENDOR agrees to maintain the confidentiality of the Educational Record(s) in accordance with the provisions of FERPA.
- C. Obligation of Confidentiality:** In performing services under this Agreement, VENDOR and CLIENT may be exposed to and will be required to use certain “Confidential Information”, as defined below. VENDOR and CLIENT along with their employees, agents or representatives will not, use, directly or indirectly, such Confidential Information for purposes other than the purposes outlined in the Agreement.
- D. Maintenance of Confidentiality:** Any Confidential Information acquired or received by either party (the “Recipient”) in the course of the Agreement will not be disclosed or transferred to any person or entity other than to employees, agents or representatives of a Party and, as to VENDOR, for the purpose of performing its obligations under the Agreement. Confidential Information received under the Agreement will be treated with the same degree of care and security as each Party uses with respect to its own Confidential Information, but not less than a reasonable degree of care. The parties agree to use Confidential Information only for the purpose of performance of the Agreement and to make no copies except as necessary for performance of the Agreement. Any such Confidential Information and copies thereof made by a Party, or any agent or representative of a Party, shall be completely and promptly destroyed at the conclusion of the contract performance subject to paragraph D(1) below. Any such access to Confidential Information shall only be granted to authorized persons who are required to such information in order to perform their obligations under the Agreement.
1. Upon termination or completion of the services to be performed under the Agreement, and upon request by CLIENT, VENDOR will delete the CLIENT’s Confidential Information or any other data requested, provided that VENDOR may maintain archival copies for audit purposes and dispute resolution purposes. If any CLIENT data is retained by VENDOR, VENDOR shall remain under its contractual obligation of confidentiality and security to CLIENT and such obligations shall survive termination of the Agreement.
- E. Data De-Identification:** VENDOR may use de-identified CLIENT Data for product development, research, or other internal purposes. De-identified CLIENT Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, name, ID numbers, date of birth, demographic information, location information, and school ID. Furthermore, VENDOR agrees not to attempt to re-identify de-identified CLIENT Data.

- F. **Data Mining, Marketing and Advertising:** Except as indicated in Section E above, VENDOR is prohibited from mining CLIENT Data for any purposes other than those agreed to by the Parties. Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited. Any and all forms of advertisement, directed towards students, parents, guardians, or QACPS employees will be strictly prohibited unless permission is requested and express written consent is provided by QACPS.
- G. **Data Sharing:** VENDOR will not share CLIENT data, with or disclose it to any third party, except to affiliated subcontractors, agents, or third-party service providers of the VENDOR, without prior specific and informed written consent of the CLIENT, except as required by law.
- H. **Data Storage:** CLIENT Data will not be stored outside of the United States without prior, specific and informed written consent from the CLIENT.
- I. **Terms, Data Transfer, Survival and Destruction:** The CLIENT may immediately terminate the Agreement if the CLIENT determines the VENDOR has breached this Addendum (or for reasons stated within the Agreement itself). The Agreement will automatically terminate at on the Agreement's expiration date, with the exception of provisions in this Addendum that survive termination. VENDOR will ensure that all CLIENT Data in its possession and in the possession of any employees, subcontractors, agents or representatives to which the VENDOR may have transferred CLIENT Data, are destroyed, except as provided for in paragraphs D(1) or E above.
- J. **Rights and License in and to CLIENT Data:** All goods, products, materials, documents, reports, writings, video images, photographs, papers and intellectual property of any nature including software or computer images prepared by the CLIENT (or its subcontractors, agents or representatives) for the VENDOR remains the property of QACPS. All student-produced work remains the property of QACPS or that eligible student. The VENDOR has a limited, nonexclusive license to the data described herein solely for the purpose of performing its obligations as outlined in the Agreement. This Addendum does not give VENDOR any rights, implied or otherwise, to CLIENT Data, content, or intellectual property, except as expressly stated in the Agreement, including any right to sell, publish, disseminate or trade Client Data.
- K. **Access:** Except as otherwise expressly prohibited by law, the VENDOR will immediately notify the CLIENT of any subpoenas, warrants, or other legal orders, demands or requests, including Audits, and governmental requests and demands, received by the VENDOR seeking CLIENT Data. After receiving such a request, VENDOR shall not release CLIENT Data, until CLIENT has had an opportunity to review said request and respond to VENDOR. CLIENT will assist VENDOR in complying with said request, within the confines of the law. If the CLIENT receives a similar request, the VENDOR will promptly supply the CLIENT with copies of records or information required by the CLIENT to respond.
- L. **Security Controls and Risk Management:** VENDOR will store and process CLIENT Data in accordance with industry best practices. This includes appropriate administrative, physical, and technical safeguards to: 1) ensure the security and confidentiality of PII and Confidential Information; 2) protect against any anticipated threats or hazards to the security or integrity of PII or Confidential Information; 3) protect against unauthorized access to or use of PII or Confidential Information that could result in harm or inconvenience to any of CLIENTS employees, students, parents of students, subcontractors, agents or representatives; and 4) when disposing of PII and Confidential Information that it is done in a secure manner.

1. To comply with the safeguard obligations generally described above, VENDOR has (a) designated an employee to coordinate its information security program, (b) identified reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of CLIENT Information that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such information, and assessed the sufficiency of any safeguards in place to control these risks, and (c) designed and implemented information safeguards to control the risks identified through the risk assessment, and regularly tests or otherwise monitors the effectiveness of safeguards' key controls, systems and procedures.
2. VENDOR will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. VENDOR will also have an incident response plan, to include prompt notification to QACPS in the event of a security or privacy incident, as well as best practices for responding to a breach of PII.
 - M. **Data Breaches:** VENDOR shall notify CLIENT in writing as soon as commercially practicable, however no later than forty-eight (48) hours, after VENDOR has either actual or constructive knowledge of a breach which affects the confidentiality, integrity, and/or availability of CLIENT's Data (an "Incident"). VENDOR shall have actual or constructive knowledge of an Incident if VENDOR actually knows there has been an Incident or if VENDOR has a reasonable basis in facts or circumstances, whether acts or omissions, for its belief that an Incident has occurred. VENDOR shall promptly take appropriate action to mitigate such risk or potential problem at VENDOR's expense. In the event of an Incident, VENDOR shall, at its sole cost and expense, restore the CLIENT data and institute appropriate measures to prevent any recurrence of the problem.
 - N. **Employee and Subcontractor Qualifications:** VENDOR shall ensure that its employees and all subcontractors, agents, representatives who have access to CLIENT Data have undergone appropriate background screening and possess all needed qualifications to comply with the terms of this Addendum. Further, like all employees, all subcontractors, agents, and representatives are bound by the obligations under this Addendum.
 - O. **Compliance:** In addition to complying with FERPA the VENDOR shall ensure that its products and services comply with the Federal Protection of Pupil Rights Act (34 CFR Part 98), the Federal Children's Internet Protection Act (47 CFR 54.520), and the Federal Children's Online Privacy and Protection Act (16 CFR Part 312). VENDOR agrees to comply with Maryland Education Code ANN. §4-131, "Operators of School Internet Web sites, Online Services, Online Applications, and Mobile Applications." VENDOR agrees to be bound as an "operator" under the law regardless of the VENDOR's exemptions that may exist in Maryland Education Code ANN. §4-131(a)(3).
 - P. **Monitoring:** VENDOR agrees to maintain and make available to CLIENT, on CLIENT's request, all information necessary to demonstrate its compliance with this Addendum and allow CLIENT the ability to audit VENDOR's use of CLIENT data with reasonable written notice.
 - Q. **Indemnification:** VENDOR agrees to indemnify and hold harmless the Board of Education of Queen Anne's County, the Superintendent of Schools, its employees, contractors, agents, and representatives for any damages or costs, including reasonable attorney's fees, which arise out of any negligence or willful misconduct by VENDOR, its employees, contractors, agents, and representatives concerning its obligations under this Addendum.
 - R. **Modification of Terms of Service:** VENDOR will not change how CLIENT Data is collected, used, or shared under the terms of this Addendum in any way without advance notice to CLIENT. Any modification to this Addendum is only valid if agreed to, written and signed by both Parties.
 - S. **Assignment; 3rd Party Beneficiary.** This Addendum may not be assigned by either Party without prior written approval of the other Party.

- T. **Governing Law:** This Addendum shall be governed by and construed in accordance with the laws of the State of Maryland. Any action or proceeding seeking any relief under or with respect to this Addendum shall be brought in a Maryland court of competent jurisdiction.

Except as provided in this Addendum, the terms and conditions of the Agreement remain in full force and effect in accordance with its terms. This Addendum may be signed using one or more counterparts. The multiple executed copies together will be considered an original and will be binding on both Parties.

READ, ACKNOWLEDGED AND AGREED UPON

QACPS:

By: _____
Signature

Printed Name Title

Date

Queen Anne's County Public School System
202 Chesterfield Ave
Centreville, MD 21617

VENDOR:

By: _____
Signature

Printed Name Title

Date

Vendor Name

Address

City, State Zip Code