

STUDENT DATA PRIVACY AGREEMENT FOR RESEARCH PROJECT

This Student Data Privacy Agreement for Research Projects dated July 27, 2018 (hereinafter "Agreement") is by and between the City of Cambridge, through its School Department, known as the Cambridge Public Schools ("CPS") and Liza Talusan, Ph.D., located at 40 Goldfinch Drive, Brockton, MA 02301 (hereinafter the "Organization"), an organization conducting a study for, or on behalf of, CPS to improve instruction by conducting focus groups ("the Study") as part of the Building Equity Bridges research grant from the Nellie Mae Foundation.

1. More specifically, the Organization will be conducting qualitative data analysis on better understanding equity across CPS schools provided at the aggregate level ("Data Files") for the purpose of supporting the development of the Study. In the course of performing the Study, Organization will with the express written consent of a student's parents/guardians/caregivers who have consented to the student participating in the Study and with the express written consent of educators who have consented to participating in the Study will obtain aggregate student level data with no student identifiers, including but not limited to discipline, assessment, special education status, health survey data and Panorama survey school climate data at the building level and will be collecting qualitative data in the form of participatory action research, focus groups and interviews ("Data Files"). CPS and Organization acknowledge and agree that this Agreement is for the purpose of sharing Data Files between the parties in a manner consistent with the Family Educational and Rights Privacy Act of 1974 ("FERPA") and Massachusetts student record regulations, 603 C.M.R. 23.00 ("State Regulations"). The Data Files will be used by the Organization and its employees to populate student data only for the purpose of delivering the Study. Organization further acknowledges and agrees that all copies of such Data Files, including any modifications or additions to Data Files or any portion thereof from any source, are subject to the provisions of this Agreement in the same manner as the original Data Files. The ability to access or maintain Data Files and/or any portion thereof under this Agreement shall not under any circumstance transfer from Organization to any other party. Organization represents and warrants that it will only use the Data Files to meet the purpose or purposes of the Study as stated within this Agreement.

2. Organization additionally acknowledges and agrees that at no point in time is the Organization the owner of the Data Files. Ownership rights are maintained by CPS and CPS reserves the right to request the prompt return of any portion of the Data Files and/or all Data Files at any time for any reason whatsoever. Organization further acknowledges and agrees that it shall adhere to the requirements set forth in both federal and state law regarding the use and re-disclosure of the Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information contained within the Data Files. Organization also acknowledges and agrees that it shall not make any re-disclosure of any Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information contained in the Data Files, without the express written consent of CPS. Additionally, Organization agrees that only authorized employees of the Organization directly involved in delivering the Study shall have access to the Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other

non-public information and/or personally identifiable information contained in the Data Files and that it and its employees shall protect the confidentiality of the Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information contained in the Data Files in such a way that parties other than officials of CPS and their authorized agents cannot identify any students and/or their parents/guardians.

3. Organization represents and warrants that the Study will be conducted in a manner that does not permit personal identification of parents/guardians and students by individuals other than representatives of the organization that have legitimate interests in the information.

4. Organization also represents and warrants to:

- (i) use reasonable methods, including but not limited to, appropriate technical, physical and administrative safeguards, that reflects technology best practices and is consistent with industry standards, to protect the Data Files and/or any portion thereof from re-disclosure that is created, sent, received, stored, processed or transmitted in connection with the Study under this Agreement while the Data Files and/or any portion thereof contained therein is both at rest and in transit. Organization further acknowledges and agrees to conduct periodic risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner.
- (ii) not share the Data Files and/or any portion thereof received under this Agreement with any other entity without prior written approval from CPS and the prior written approval of the parent/guardian of the student or eligible student.
- (iii) not copy, reproduce, re-disclose or transmit the Data Files and/or any portion thereof except as necessary to fulfill the Study.
- (iv) not transfer or sell the Data Files and/or any portion thereof.
- (v) not to use the Data Files and/or any portion thereof to market or otherwise advertise directly to students and/or their parents/guardians.
- (vi) not to use the Data Files and/or any portion thereof to inform, influence or guide marketing or advertising efforts or to develop a profile of a student or group of students for any commercial or other purposes.
- (vii) not to use the Data Files and/or any portion thereof contained therein for the development of commercial products or services.
- (viii) not to mine the Data Files and/or any portion thereof for any purposes other than those agreed to by the parties. Organization further acknowledges that data mining or scanning of user content for the purpose of advertising or marketing to students or their parents/guardians is expressly prohibited.

- (ix) notify the Chief Information Officer for CPS in writing within one (1) day of its determination that it has experienced a data breach, breach of security, privacy incident or unauthorized acquisition or use of any Data Files and/or any portion thereof contained therein. Organization agrees that said notification shall include, to the extent feasible, the date or approximate dates of such incident and the nature thereof, the specific scope of said breach (i.e., what data was accessed, used, released or otherwise breached, including the names of individual students that were affected by said breach) and what actions or steps with respect to the incident that Organization plans to take or has taken in response to said breach. Additionally, Organization agrees to adhere to all requirements in the Massachusetts Data Breach law and in federal law with respect to a data breach related to the Data Files, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach. Organization further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of Data Files or any portion thereof, including personally identifiable information and agrees to provide CPS, upon request, with a copy of said written incident response plan.
- (x) not provide any Data Files or any portion thereof to any party ineligible to receive student records and/or student record data and information protected by FERPA and State Regulations or prohibited from receiving the Data Files or any portion thereof and/or any personally identifiable information from any entity under 34 CFR 99.31(a)(6)(iii).
- (xi) maintain backup copies, backed up at least daily, of Data Files in case of Organization system failure or any other unforeseen event resulting in loss of Data Files or any portion thereof.
- (xii) upon receipt of a request from CPS, immediately provide CPS with any specified portion of the Data Files within three (3) calendar days of receipt of said request.
- (xiii) upon receipt of a request from CPS, immediately begin the process of returning all Data Files over to CPS and subsequently erasing and/or otherwise destroying any Data Files, be it digital, archival or physical form, including without limitation any copies of the Data Files or any portions thereof that may reside in system backups, temporary files or other storage media and or are otherwise still in Organization's possession and/or in the possession of any subcontractors, or agents to which the Organization may have transferred Data Files or any portion thereof, in a manner consistent with technology best practices and industry standards for secure data disposal methods such that Organization and/or any of its subcontractors or agents are no longer in possession of any student work belonging to CPS and to ensure that the Data Files cannot be recovered

and are securely destroyed and to provide CPS with any and all Data Files in Organization's possession, custody or control within seven (7) calendar days of receipt of said request. Organization also will provide CPS with written certification, including an inventory of its Data Files destruction, and with written certification, including an inventory of all Data Files returned to CPS, within fifteen (15) days of its receipt of CPS request for destruction of Data Files.

- (xiv) in the event of the Organization's cessation of operations, promptly return all Data Files to CPS in an organized, manageable manner and subsequently erasing and/or otherwise destroying any Data Files, be it digital, archival or physical form, including without limitation any copies of the Data Files or any portions thereof that may reside in system backups, temporary files or other storage media and or are otherwise still in Organization's possession and/or in the possession of any subcontractors, or agents to which the Organization may have transferred Data Files or any portion thereof, in a manner consistent with technology best practice and industry standards for secure data disposal methods such that Organization and/or any of its subcontractors or agents are no longer in possession of any student work belonging to CPS and to ensure that the Data Files cannot be recovered and are securely destroyed. Organization also will provide CPS with written certification, including an inventory of its Data Files destruction, and with written certification, including an inventory of all Data Files returned to CPS, within fifteen (15) days of Organization's cessation of operations.
- (xv) not use, disclose, compile, transfer, sell the Data Files and/or any portion thereof to any third party or other entity or allow any other third party or other entity to use, disclose, compile, transfer or sell the Data Files and/or any portion thereof.
- (xvi) in the event of the Organization and/or any of its subcontractors or agents to which the Organization may have transferred Data Files or any portion thereof has technology or storage media that has failed and needs to be replaced or serviced, to ensure that all Data Files or any portions thereof that are contained therein are sanitized, erased and/or otherwise destroyed. Organization also will provide CPS with written certification, including an inventory of its Data Files destruction, within fifteen (15) days of any such occurrence.
- (xvii) destroy CPS Data Files that it collects or receives under this Agreement within thirty (30) days of when the Data Files are no longer needed for the purposes for which the Study was conducted, whether the Data Files be in digital, archival or physical form, including without limitation any copies of the Data Files or any portions thereof that may reside in system backups, temporary files or other storage media and or are otherwise still in Organization's possession and/or in the possession of any

subcontractors, or agents to which the Organization may have transferred Data Files or any portion thereof, in a manner consistent with technology best practice and industry standards for secure data disposal methods such that Organization and/or any of its subcontractors or agents are no longer in possession of any student work belonging to CPS and to ensure that the Data Files cannot be recovered and are securely destroyed. Organization also will provide CPS with written certification, including an inventory of its Data Files destruction, and with written certification, including an inventory of all Data Files returned to CPS, within fifteen (15) days of Organization destruction of the Data Files.

- (xviii) upon receipt of a litigation hold request from CPS, immediately implement a litigation hold and preserve all documents and data relevant identified by CPS and suspend deletion, overwriting, or any other possible destruction of documentation and data identified in, related to, arising out of and/or relevant to the litigation hold.
- (xix) upon receipt of a request from CPS, allow CPS to audit the security and privacy measures that are in place to ensure protection of the Data Files or any portion thereof.
- (xx) cooperate fully with CPS and any local, state, or federal agency with oversight authority/jurisdiction in connection with any audit or investigation of the Organization and/or delivery of Study to students and/or CPS, and shall provide full access to Organization's facilities, staff, agents and CPS Data Files and all records pertaining to the Organization, CPS Data Files and delivery of Study to CPS. Failure to cooperate shall be deemed a material breach of the Contract.
- (xxi) not assign, subcontract or in any way transfer any interest in this Agreement without the prior written consent of CPS.

5. CPS represents and warrants that all rights, including intellectual property rights in the Data Files, shall remain the exclusive property of CPS and/or the student, as applicable, and Organization as a limited, nonexclusive license solely for the purpose of performing the Study as outlined in this Agreement. This Agreement does not give the Organization any rights, implied or otherwise, to Data Files or any portion thereof, content or intellectual property, except as expressly stated in this Agreement. This includes, without limitation, the right to sell or trade the Data Files or any portion thereof.

6. Organization certifies under the penalties of perjury that it complies with all federal and state laws, regulations and rules as such laws may apply to the receipt, storing, maintenance or access to personal information, including without limitation, all standards for the protection of personal information of residents of the Commonwealth and maintaining safeguards for personal information. Organization hereby further certifies under penalties of perjury that it has a written comprehensive information security program that is in compliance with the provisions of 201 C.M.R. 17.00 *et seq.* Further, the Organization hereby certifies under the penalties of perjury that it shall fully comply with the provisions of the federal Family

Educational Rights and Privacy Act, 20 U.S.C. §1232g and regulations promulgated thereunder and Massachusetts student records law and regulations, including without limitation, 603 C.M.R. 23.00 et seq., and to fully protect the confidentiality of any student data, meta data, user content or other non-public information and/or personally identifiable information provided to it or its representatives. Organization further represents and warrants that it has reviewed and complied with all information security programs, plans, guidelines, standards and policies that apply to the work it will be performing, that it will communicate these provisions to and enforce them against its subcontractors and will implement and maintain any other reasonable and appropriate security procedures and practices necessary to protect personal information and/or student record information from unauthorized access, destruction, use, modification, disclosure or loss. Organization also represents and warrants that if the Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information, is to be stored on a laptop or other mobile electronic device, that such electronic devices are encrypted and that all such devices will be scanned at the completion of any contract or service agreement and/or research study or project to ensure that no personal information and/or student record information is stored on such electronic devices. Furthermore, Organization represents and warrants that it has in place a service that will allow it to wipe the hard drive on any stolen laptop or mobile electronic device remotely and have purchased locks for all laptops and mobile electronic devices and have a protocol in place to ensure use by employees.

7. Organization acknowledges and agrees that CPS is not required to agree with or endorse the conclusions or results of the Study.

8. The designated representative for the Organization for this Agreement is:

Liza Talusan, Ph.D.
40 Goldfinch Drive
Brockton, MA 02301
Email: liza.talusan@gmail.com
Phone: 516-984-0711

and

The designated representative for CPS for this Agreement is:

Steve Smith
Chief Information Officer
Information, Communications & Technology Services
Cambridge Public Schools
459 Broadway
Cambridge, MA 02138
Email: ssmith@cpsd.us
Phone: 617-349-3055

9. The Organization shall be liable for any and all damages, costs and attorneys' fees which the City of Cambridge and CPS may incur as a result of any claims, suits and judgments against the City of Cambridge and CPS which arise out of the acts or omissions of the Organization, its employees, servants, representatives or agents during the term of this Agreement.

10. No delay or omission of CPS to exercise any right hereunder shall be construed as a waiver of any such right and CPS reserves the right to exercise any such right from time to time, as often as may be deemed expedient.

11. The laws of the Commonwealth of Massachusetts shall govern this Agreement and the parties agree to be bound by the laws of the Commonwealth of Massachusetts in the resolution of any dispute concerning any of the terms and conditions of this Agreement and consent to the jurisdiction of the United States Court for the District of Massachusetts and/or the trial courts of Massachusetts for any actions arising out of or related to this Agreement.

12. Organization represents that it is authorized to bind to the terms of this Agreement, including confidentiality and destruction of Data Files and any portion thereof contained therein, all related or associated institutions, individuals, employees or contractors who may have access to the Data Files and/or any portion thereof, or may own, lease or control equipment or facilities of any kind where the Data Files and portion thereof stored, maintained or used in any way.

13. The terms and conditions of this Agreement may not be modified unless by such modifications are agreed to in a written document that is signed by both parties.


IN WITNESS WHEREOF, and in consideration of the mutual covenants set forth herein and for other good and valuable consideration, and intending to be legally bound, each party has caused this Agreement to be duly executed as a Massachusetts instrument under seal as of the day and year first written above.

LIZA TALUSAN



Liza Talusan, Ph.D.

CAMBRIDGE PUBLIC SCHOOLS



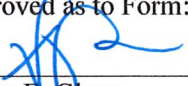
Kenneth N. Salim, Ed.D.
Superintendent of Schools

CITY OF CAMBRIDGE

By: 

Louis A. DePasquale
City Manager

Approved as to Form:



Nancy E. Glowa
City Solicitor