

**MASSACHUSETTS STUDENT DATA PRIVACY AGREEMENT  
VERSION (2018)**

**Wayland Public Schools**

**and**

**Heartland Payment Systems, LLC**

**November 1, 2018**

This Massachusetts Student Data Privacy Agreement (“DPA”) is entered into by and between the school district, Wayland Public Schools (hereinafter referred to as “LEA”) and Heartland Payment Systems, LLC (hereinafter referred to as “Provider”) on November 1, 2018. The Parties agree to the terms as stated herein.

## RECITALS

**WHEREAS**, the Provider has agreed or will agree to provide the Local Education Agency (“LEA”) with certain digital educational services (“Services”) as described in Article I and Exhibit “A”; and

**WHEREAS**, the Provider, by signing this Agreement, agrees to allow the LEA to offer school districts in Massachusetts the opportunity to accept and enjoy the benefits of the DPA for the Services described, without the need to negotiate terms in a separate DPA; and

**WHEREAS**, in order to provide the Services described in Article I and Appendix A, the Provider may receive or create and the LEA may provide documents or data that are covered by several federal statutes, which may include but are not limited to, the Federal Educational Rights and Privacy Act (“FERPA”) at 20 U.S.C. 1232g and 34 CFR Part 99, Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. 6501-6502; Protection of Pupil Rights Amendment (“PPRA”) 20 U.S.C. 1232h; the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §§ 1400 et. seq.; and

**WHEREAS**, the documents and data transferred from Massachusetts LEAs and created by the Provider’s Services are also subject to several Massachusetts student privacy laws, including Massachusetts student record regulations, 603 C.M.R. 23.00, Massachusetts General Law, Chapter 71, Sections 34D to 34H and 603 CMR 28.00; and

**WHEREAS**, the Parties wish to enter into this DPA to set forth each Party’s respective rights and obligations with respect to the privacy laws referred to above and to establish implementing procedures and duties.

**NOW THEREFORE**, for good and valuable consideration, the parties agree as follows:

## ARTICLE I: PURPOSE AND SCOPE

- 1. Purpose of DPA.** The purpose of this DPA is to describe the duties and responsibilities to protect Student Data (as defined in Exhibit “C”) transmitted to Provider from the LEA pursuant to Exhibit “A”, including compliance with all applicable privacy statutes, including the FERPA, PPRA, COPPA, IDEA, 603 C.M.R. 23.00, 603 CMR 28.00, and Massachusetts General Law, Chapter 71, Sections 34D to 34H. In performing these services, to the extent Personally Identifiable Information (as defined in Exhibit “C”) from Pupil Records (as defined in Exhibit “C”) are transmitted to Provider from LEA, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the LEA. With respect to the provision of the Services and solely to the extent required by FERPA (§ 99.31(a)(1)(i)(B)) and 603 CMR 23.02, Provider shall be under the direct control and supervision of the LEA. Control duties are set forth below.
- 2. Nature of Services Provided.** The Provider has agreed to provide the following digital educational services described in Exhibit “A”.

3. **Student Data to Be Provided.** In order to perform the Services described in this Article and Exhibit "A", LEA shall provide the categories of data described in the Schedule of Data, attached hereto as Exhibit "B".
4. **DPA Definitions.** The definition of terms used in this DPA is found in Exhibit "C". In the event of a conflict, definitions used in this DPA shall prevail over terms used in all other writings, including, but not limited to, a service agreement, privacy policies or any terms of service.

## **ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS**

1. **Student Data Property of LEA.** All Student Data or any other Pupil Records transmitted to the Provider pursuant to this Agreement is and will continue to be the property of and under the control of the LEA, or to the party who provided such data (such as the student or parent.). The Provider further acknowledges and agrees that all copies of such Student Data or any other Pupil Records transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are also subject to the provisions of this Agreement in the same manner as the original Student Data or Pupil Records. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data or any other Pupil Records contemplated per this Agreement shall remain the exclusive property of the LEA. For the purposes of FERPA and state law, the Provider shall be considered a School Official, under the control and direction of the LEAs, as it pertains to the use of student data notwithstanding the above. The Provider will cooperate and provide Student Data within ten (10) days at the LEA's request. Provider may transfer pupil-generated content to a separate account, according to the procedures set forth below.
2. **Parent Access.** LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review personally identifiable information on the pupil's records, correct erroneous information, and procedures for the transfer of pupil-generated content to a personal account, consistent with the functionality of services. Provider shall cooperate and respond within ten (10) days to the LEA's request for personally identifiable information in a pupil's records held by the Provider to view or correct as necessary. In the event that a parent of a pupil or other individual contacts the Provider to review any of the Pupil Records of Student Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the LEA, who will follow the necessary and proper procedures regarding the requested information.
3. **Separate Account.** Provider shall, at the request of the LEA, transfer Student Generated Content to a separate student account.
4. **Third Party Request.** Should a Third Party, including, but not limited to law enforcement, former employees of the LEA, current employees of the LEA, and government entities, contact Provider with a lawful request for data held by the Provider pursuant to the Services, then to the extent legally permitted, the Provider shall redirect the Third Party to request the data directly from the LEA and shall cooperate with the LEA to collect the required information. Provider shall notify the LEA in advance of a compelled disclosure to a Third Party, unless legally

prohibited. The Provider will not use, disclose, compile, transfer, sell the Student Data 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 Student Data and/or any portion thereof, without the express written consent of the LEA or without a court order or lawfully issued subpoena. Student Data shall not constitute that information that has been anonymized or de-identified, or anonymous usage data regarding a student's use of Provider's services.

5. **No Unauthorized Use.** Provider shall not use Student Data or information in a Pupil Record for any purpose other than as explicitly specified in this DPA or in any written agreement by and between Provider and the LEA.
6. **Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions pursuant to this DPA, whereby the Subprocessors agree to protect Student Data in manner consistent with the terms of this DPA.

#### ARTICLE III: DUTIES OF LEA

1. **Provide Data In Compliance With Laws.** LEA shall provide data for the purposes of the DPA in compliance with the FERPA, PPRA, IDEA, 603 C.M.R. 23.00, 603 CMR 28.00, and Massachusetts General Law, Chapter 71, Sections 34D to 34H, and the other privacy statutes quoted in this DPA. LEA shall ensure that its annual notice under FERPA includes vendors, such as the Provider, as "School Officials."
2. **Reasonable Precautions.** LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted data.
3. **Unauthorized Access Notification.** LEA shall notify Provider promptly of any known or suspected unauthorized access. LEA will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

#### ARTICLE IV: DUTIES OF PROVIDER

1. **Privacy Compliance.** The Provider shall comply with all applicable Massachusetts and Federal laws and regulations pertaining to data privacy and security, which may include but are not limited to FERPA, COPPA, PPRA, , 603 C.M.R. 23.00 and Massachusetts General Law, Chapter 71, Sections 34D to 34H.
2. **Authorized Use.** Student Data shared pursuant to this DPA, including persistent unique identifiers, shall be used for no purpose other than the Services stated in this DPA and as authorized under applicable law. Provider also acknowledges and agrees that it shall not make any re-disclosure of any Student Data 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 Student Data, without the express written consent of the LEA, unless it fits into the de-identified information exception in Article IV, Section 4, or there is a court order or lawfully issued subpoena for the information.

3. **Employee Obligation.** Provider shall require all employees and agents who have access to Student Data to comply with all applicable provisions of this DPA and appropriate confidentiality restrictions with respect to the data shared under this DPA. Provider agrees to have employees enter into confidentiality agreements upon starting employment.
  
4. **No Disclosure.** De-identified information, as defined in Exhibit "C", may be used by the Provider for the purposes of development, research, and improvement of educational sites, services, or applications, as any other member of the public or party would be able to use de-identified data pursuant to 34 CFR 99.31(b). The Provider and LEA agree that the Provider cannot successfully de-identify information if there are fewer than twenty (20) students in the samples of a particular field or category of information collected, *i.e.*, twenty students in a particular grade, twenty students of a particular race, or twenty students with a particular disability. Provider agrees not to attempt to re-identify de-identified Student Data and not to transfer de-identified Student Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to the LEA who has provided prior written consent for such transfer. Provider shall not copy, reproduce or transmit any data obtained under this DPA and/or any portion thereof, except as necessary to fulfill the DPA.
  
5. **Disposition of Data.** Upon receipt of written request from the LEA, Provider shall dispose or delete all personally identifiable data obtained under the DPA when it is no longer needed for the purpose for which it was obtained and transfer said data to LEA or LEA's designee within sixty (60) days of the date of termination and according to a schedule and procedure as the Parties may reasonably agree. Nothing in the DPA authorizes Provider to maintain personally identifiable data obtained under any other writing beyond the time period reasonably needed to complete the disposition. Disposition shall include (1) the shredding of any hard copies of any Pupil Records; (2) Erasing; or (3) Otherwise modifying the personal information in those records to make it unreadable or indecipherable. Provider shall provide written notification to LEA when the Data has been disposed. The duty to dispose of Student Data shall not extend to data that has been de-identified or placed in a separate Student account, pursuant to the other terms of the DPA. The LEA may employ a "Request for Return or Deletion of Student Data" FORM, A Copy of which is attached hereto as Exhibit "D"). Upon receipt of a request from the LEA, the Provider will immediately provide the LEA with any specified portion of the Student Data within ten (10) calendar days of receipt of said request.
  
6. **Advertising Prohibition.** Provider is prohibited from using Student Data to (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing or advertising efforts by a Provider; (c) develop a profile of a student, family member/guardian or group, for any commercial purpose other than providing the Service to Client; or (d) use the

Student Data for the development of commercial products or services, other than as necessary to provide the Service to Client.

#### ARTICLE V: DATA PROVISIONS

1. **Data Security.** The Provider agrees to abide by and maintain adequate data security measures, consistent with industry standards and technology best practices, to protect Student Data from unauthorized disclosure or acquisition by an unauthorized person. The general security duties of Provider are set forth below. Provider may further detail its security programs and measures in Exhibit "F" hereto. These measures shall include, but are not limited to:
  - a. **Passwords and Employee Access.** Provider shall secure usernames, passwords, and any other means of gaining access to the Services or to Student Data, at a level suggested by Article 4.3 of NIST 800-63-3. Provider shall only provide access to Student Data to employees or contractors that are performing the Services. Provider agrees to have employees enter into confidentiality agreements upon starting employment. All employees with access to Student Records shall pass criminal background checks.
  - b. **Destruction of Data.** Upon receipt of written request from the LEA, as outlined in Article IV, Section 5, Provider shall destroy or delete all Personally Identifiable Data contained in Student Data and obtained under the DPA when it is no longer needed for the purpose for which it was obtained or transfer said data to LEA or LEA's designee, according to a schedule and procedure as the parties may reasonable agree.
  - c. **Security Protocols.** Both parties agree to maintain security protocols that meet industry best practices in the transfer or transmission of any data, including ensuring that data may only be viewed or accessed by parties legally allowed to do so. Provider shall maintain all data obtained or generated pursuant to the DPA in a secure computer environment and not copy, reproduce, or transmit data obtained pursuant to the DPA, except as necessary to fulfill the purpose of data requests by LEA. The foregoing does not limit the ability of the Provider to allow any necessary service providers to view or access data as set forth in Article IV, section 4.
  - d. **Employee Training.** The Provider shall provide periodic security training to those of its employees who operate or have access to the system. Further, Provider shall provide LEA with contact information of an employee who LEA may contact if there are any security concerns or questions.
  - e. **Security Technology.** When the service is accessed using a supported web browser, Secure Socket Layer ("SSL"), or equivalent technology shall be employed to protect data from unauthorized access. The service security measures shall include server authentication and data encryption. Provider shall host data pursuant to the DPA in an environment using a firewall that is periodically updated according to industry standards.
  - f. **Security Coordinator.** Provider shall provide the name and contact information of Provider's Security Coordinator for the Student Data received pursuant to the DPA.
  - g. **Subprocessors Bound.** Provider shall enter into written agreements whereby Subprocessors agree to secure and protect Student Data in a manner consistent with the

terms of this Article V. The Provider will remain responsible for its compliance with the obligations of this DPA and for any acts or omissions of the Subprocessors that cause the Provider to breach any of the Provider's obligations under this DPA.

- h. Periodic Risk Assessment.** Provider further acknowledges and agrees to conduct periodic risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner.
- i. Backups.** Provider agrees to maintain backup copies, backed up in accordance with industry standard practices, of Student Data in case of Provider's system failure or any other unforeseen event resulting in loss of Student Data or any portion thereof.
- j. Audits.** Upon receipt of a request from the LEA and subject at all times to Provider's policies and procedures with respect to the timing and manner of audits, the Provider will allow the LEA to audit the security and privacy measures that are in place to ensure protection of the Student Record or any portion thereof. The Provider will cooperate fully with the LEA and any local, state, or federal agency with oversight authority/jurisdiction in connection with any audit or investigation of the Provider and/or delivery of Services to students and/or LEA, and, subject at all times to Provider's policies and procedures with respect to the timing and manner of audits, shall provide access to the Provider's facilities, staff, agents and LEA's Student Data and all records pertaining to the Provider, LEA and delivery of Services to the Provider. Failure to cooperate shall be deemed a material breach of the Agreement.

**2. Data Breach.** In the event that Student Data is accessed or obtained by an unauthorized individual, in accordance with applicable law, Provider agrees to notify the LEA within fifteen (15) days following Provider's internal confirmation of a breach that impacts the LEA's information, unless prohibited from doing so by law enforcement or a regulatory authority, in which case Provider will provide notice promptly in accordance with the circumstances. Provider shall follow the following process:

- a.** The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described herein under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.
- b.** Provider agrees to adhere to all applicable state and federal requirements with respect to a data breach related to the Student Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
- c.** Provider 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 Student Data or any portion thereof, including personally identifiable information and agrees to make employees available at reasonable times to discuss the written incident plan.
- d.** At the request of the District, Provider shall provide reasonable assistance to the District

notify the affected parent, legal guardian or eligible pupil of the unauthorized access.

#### ARTICLE VI: MISCELLANEOUS

1. **Term.** The Provider shall be bound by this DPA for so long as the Provider maintains any Student Data. Notwithstanding the foregoing, Provider agrees to be bound by the terms and obligations of this DPA for three (3) years.
2. **Termination.** In the event that either party seeks to terminate this DPA, they may do so by mutual written consent and as long as any service agreement or terms of service, to the extent one exists, has lapsed or has been terminated.

The LEA may terminate this DPA and any service agreement or contract with the Provider if the Provider breaches any terms of this DPA.

3. **Effect of Termination Survival.** If the DPA is terminated, upon receipt of written request from the LEA, the Provider shall destroy all of LEA's data pursuant to Article V, section 1(b).
4. **Priority of Agreements.** This DPA shall govern the treatment of student records in order to comply with the privacy protections, including those found in FERPA, IDEA, COPPA, PPRA, 603 CMR 28.00, 603 C.M.R. 23.00, and Massachusetts General Law, Chapter 71, Sections 34D to 34H. In the event there is conflict between the terms of the DPA and any other writing, such as service agreement or with any other bid/RFP, terms of service, privacy policy, license agreement, or writing, the terms of this DPA shall apply and take precedence. Except as described in this paragraph herein, all other provisions of any other agreement shall remain in effect.



5. **Notice.** All notices or other communication required or permitted to be given hereunder must be in writing and given by personal delivery, overnight courier, or registered mail, return receipt requested, sent to the designated representatives below.

The designated representative for the Provider for this Agreement is:

Name David L. Green  
Title Corporate Secretary  
Address Heartland Payment Systems, LLC  
3550 Lenox Road, Suite 3000  
Atlanta, Georgia 30326

The designated representative for the LEA for this Agreement is:

Name Leisha Simon  
Title Director of Technology, Wayland Public Schools  
Address 41 Cochituate Road, Wayland, MA 01778

6. **Entire Agreement.** This DPA constitutes 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. Neither failure nor delay on the part of any party in exercising any right, power, or privilege hereunder shall operate as a waiver of such right, nor shall any single or partial exercise of any such right, power, or privilege preclude any further exercise thereof or the exercise of any other right, power, or privilege.
7. **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.
8. **Governing Law; Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND

CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MASSACHUSETTS,  
WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES.

9. **Authority.** Provider represents that it is authorized to bind to the terms of this Agreement, any portion thereof contained therein, all related or associated institutions, individuals, employees or contractors who may have access to the Student Data and/or any portion thereof, or may own, lease or control equipment or facilities of any kind where the Student Data and portion thereof stored, maintained or used in any way.
10. **Waiver.** No delay or omission of a Party to exercise any right hereunder shall be construed as a waiver of any such right and the other Party reserves the right to exercise any such right from time to time, as often as may be deemed expedient.
11. **Electronic Signature:** The parties understand and agree that they have the right to execute this Agreement through paper or through electronic signature technology, which is in compliance with Massachusetts and Federal law governing electronic signatures. The parties agree that to the extent they sign electronically, their electronic signature is the legally binding equivalent to their handwritten signature. Whenever they execute an electronic signature, it has the same validity and meaning as their handwritten signature. They will not, at any time in the future, repudiate the meaning of their electronic signature or claim that their electronic signature is not legally binding. They agree not to object to the admissibility of this Agreement as an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

Each party will immediately request that their electronic signature be revoked in writing if they discover or suspect that it has been or is in danger of being lost, disclosed, compromised or subjected to unauthorized use in any way. They understand that they may also request revocation at any time of their electronic signature for any other reason in writing.

If either party would like a paper copy of this Agreement, they may request a copy from the other party.

12. **Multiple Counterparts:** This Agreement may be executed in any number of identical counterparts. If so executed, each of such counterparts shall constitute this Agreement. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart. Execution and delivery of this Agreement by .pdf or other electronic format shall constitute valid execution and delivery and shall be effective for all purposes (it being agreed that PDF email shall have the same force and effect as an original signature for all purposes).

**ARTICLE VII- GENERAL OFFER OF TERMS**

Provider may, by signing the attached Form of General Offer of Privacy Terms (General Offer, attached hereto as Exhibit "E"), be bound by the terms of this to any other school district who signs the acceptance in said Exhibit.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have executed this Massachusetts Student Data Privacy Agreement as of the last day noted below.

WAYLAND PUBLIC SCHOOLS

Arthur Unobskey Date: 11-9-18

Printed Name: Arthur Unobskey

Title: Superintendent of Schools

HEARTLAND PAYMENT SYSTEMS, LLC

David L. Green Date: 11/5/2018  
KN

Printed Name: DAVID L. GREEN

Title: CORPORATE SECRETARY

**EXHIBIT "A"**

**DESCRIPTION OF SERVICES**

My School Bucks, an online school lunch payment system

<https://www.myschoolbucks.com/ver2/login/getmain?requestAction=home>

Nutrikids, a suite of food service department solutions

<https://www.heartlandpaymentsystems.com/school-solutions/nutrition-technology/nutrikids>

**EXHIBIT "B"**  
**SCHEDULE OF DATA**

| Category of Data                    | Elements   | Check if used by your system |
|-------------------------------------|--|------------------------------|
| Application Technology Meta Data    | IP Addresses of users, Use of cookies etc.                                     |                              |
|                                     | Other application technology meta data-Please specify:                         |                              |
| Application Use Statistics          | Meta data on user interaction with application                                 | X                            |
| Assessment                          | Standardized test scores   |                              |
|                                     | Observation data   |                              |
|                                     | Other assessment data-Please specify:  |                              |
| Attendance                          | Student school (daily) attendance data   |                              |
|                                     | Student class attendance data  |                              |
| Communications                      | Online communications that are captured (emails, blog entries)                 | X                            |
| Conduct                             | Conduct or behavioral data   |                              |
| Demographics                        | Date of Birth  | X                            |
|                                     | Place of Birth   |                              |
|                                     | Gender   |                              |
|                                     | Ethnicity or race  |                              |
|                                     | Language information (native, preferred or primary language spoken by student) |                              |
|                                     | Other demographic information-Please specify:                                  |                              |
| Enrollment                          | Student school enrollment  | X                            |
|                                     | Student grade level  | X                            |
|                                     | Homeroom   | X                            |
|                                     | Guidance counselor   |                              |
|                                     | Specific curriculum programs   |                              |
|                                     | Year of graduation   |                              |
| Parent/Guardian Contact Information | Address  | X                            |
|                                     | Email  | X                            |
|                                     | Phone  | X                            |
| Parent/Guardian ID                  | Parent ID number (created to link parents to students)                         | X                            |
| Parent/Guardian Name                | First and/or Last  | X                            |

| Category of Data                            | Elements   | Check if used by your system |
|---|--|------------------------------|
| Schedule                                    | Student scheduled courses  |                              |
|   | Teacher names  |                              |
| Special Indicator                           | English language learner information   |                              |
|   | Low income status  |                              |
|   | Medical alerts   |                              |
|   | Student disability information   |                              |
|   | Specialized education services (IEP or 504)  |                              |
|   | Living situations (homeless/foster care)   |                              |
| Other indicator information-Please specify: |  |                              |
| Category of Data                            | Elements   | Check if used by your system |
| Student Contact Information                 | Address  |                              |
|   | Email  |                              |
|   | Phone  |                              |
| Student Identifiers                         | Local (School district) ID number  | X                            |
|   | State ID number  |                              |
|   | Vendor/App assigned student ID number  |                              |
|   | Student app username   |                              |
|   | Student app passwords  |                              |
| Student Name                                | First and/or Last  | X                            |
| Student In App Performance                  | Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level) |                              |
| Student Program Membership                  | Academic or extracurricular activities a student may belong to or participate in                                       |                              |
| Student Survey Responses                    | Student responses to surveys or questionnaires   |                              |
| Student work                                | Student generated content; writing, pictures etc.  |                              |
|   | Other student work data - Please specify:  |                              |

| Category of Data | Elements   | Check If used by your system |
|------------------|--|------------------------------|
| Transcript       | Student course grades  |                              |
|                  | Student course data  |                              |
|                  | Student course grades/performance scores   |                              |
|                  | Other transcript data -Please specify:   |                              |
| Transportation   | Student bus assignment   |                              |
|                  | Student pick up and/or drop off location   |                              |
|                  | Student bus card ID number   |                              |
|                  | Other transportation data - Please specify:  |                              |
| Other            | Please list each additional data element used, stored or collected by your application |                              |

**Provider:** For purposes of the DPA, the term “Provider” means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records.

**Pupil Generated Content:** The term “pupil-generated content” means materials or content created by a pupil during and for the purpose of education 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 pupil content.

**Pupil Records:** Means both of the following: (1) Any information that directly relates to a pupil that is maintained by LEA and (2) any information acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other local educational LEA employee.

**School Official:** For the purposes of this Agreement and pursuant to 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 education records; and (3) Is subject to 34 CFR 99.33(a) governing the use and re-disclosure of personally identifiable information from student records. The definition of “school official” encompasses the definition of “authorized school personnel” under 603 CMR 23.02.

**Student Data:** Student Data includes any data, whether gathered by Provider or provided by LEA or its users, students, or students’ parents/guardians, that is descriptive of the student including, but not limited to, information in the student’s educational record or email, first and last name, home address, telephone number, email address, or other information allowing online contact, discipline records, videos, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security numbers, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information text messages, documents, student identifies, search activity, photos, voice recordings or geolocation information. Student Data shall constitute Pupil Records for the purposes of this Agreement, and for the purposes of Massachusetts and Federal 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 constitute that information that has been anonymized or de-identified, or anonymous usage data regarding a student’s use of Provider’s services.

**Subscribing LEA:** An LEA that was not party to the original Services Agreement and who accepts the Provider’s General Offer of Privacy Terms.

**Subprocessor:** For the purposes of this Agreement, 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 software, and who has access to PII.

**Targeted Advertising:** Targeted advertising means presenting an advertisement to a student where the selection of the advertisement is based on student information, student records or student generated content or inferred over time from the usage of the Provider’s website, online service or mobile application by such student or the retention of such student’s online activities or requests over time.

**Third Party:** The term “Third Party” means an entity that is not the provider or LEA.



EXHIBIT "D"

**DIRECTIVE FOR DISPOSITION OF DATA**

[Name or District or LEA] directs [Name of Company] to dispose of data obtained by Company 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 categories of data to be disposed of are set forth below or are found in an attachment to this Directive:

[Insert categories of data here]

\_\_\_ Disposition is Complete. Disposition extends to all categories of data.

2. Nature of Disposition

\_\_\_ Disposition shall be by destruction or deletion of data.

\_\_\_ Disposition shall be by a transfer of data. The data shall be transferred to the following site as follows:

[Insert or attach special instructions.]

3. Timing of Disposition

Data shall be disposed of by the following date:

\_\_\_ As soon as commercially practicable

\_\_\_ By (Insert Date)

4. Signature

\_\_\_\_\_  
(Authorized Representative of LEA)

\_\_\_\_\_  
Date

5. Verification of Disposition of Data

\_\_\_\_\_  
Authorized Representative of Company

\_\_\_\_\_  
Date