This Schedule "B" is part and parcel to the Vendor Agreement dated June 21st, 2023 by and between Panorama Education, Inc. ("Vendor") and Onondaga Cortland Madison Board of Cooperative Educational Services ("OCM BOCES").

## DATA PRIVACY AND SECURITY AGREEMENT

1.  For purposes of this Schedule "B", terms shall be defined as follows:

    c.  "Breach" means the unauthorized acquisition, access, use, or disclosure of student data and/or teacher or principal data by or to a person not authorized to acquire, access, use, or receive the student data and/or teacher or principal data. For the avoidance of doubt, Vendor's use of de-identified data in accordance with the Agreement shall be authorized.

    d.  "Commercial Purpose" or "Marketing Purpose" means the sale of student data; or its disclosure for purposes of receiving remuneration, whether directly or indirectly; the use of student data for advertising purposes, or to develop, improve or market products or services to students.

    e.  "Disclose" or "Disclosure" means to permit access to, or the release, transfer, or other communication of Personally Identifiable Information (as defined below) by any means, including oral, written, or electronic, whether intended or unintended.

    f.  "Education Records" means an education record as defined in the Family Educational Rights and Privacy Act and its implementing regulations, 20 U.S.C. 1232g and 34 C.F.R. Part 99, respectively.

    g.  "Eligible Student" means a student who is eighteen years or older.

    h.  "Encryption" means methods of rendering Personally Identifiable Information unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified or permitted by the Secretary of the United States department of health and human services in guidance issued under Section 13402(H)(2) of Public Law 111-5.

    i.  "Parent" means a parent, legal guardian, or person in parental relation to a student.

    j.  "Personally Identifiable Information," as applied to student data, means personally identifiable information as defined in section 99.3 of Title 34 of the Code of Federal Regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C 1232g, and as applied to teacher and principal data, means personally identifiable information as such term is defined in N.Y. Education Law §3012-c (10). For the avoidance of doubt, Personally Identifiable Information does not include aggregate summaries of de-identified data.

    k.  "Release" shall have the same meaning as Disclosure or Disclose.

l. "Student" means any person attending or seeking to enroll in an educational agency.

m. "Student data" means Personally Identifiable Information from the student records of an educational agency. For purposes of this Schedule "B", "student data" includes Personally Identifiable Information made accessible to Vendor by OCM BOCES, OCM BOCES officers, OCM BOCES employees, OCM BOCES agents, OCM BOCES students, and/or the officers, employees, agents, and/or students of educational agencies that contract with OCM BOCES in order to access Vendor's services.

n. "Teacher or principal data" means Personally Identifiable Information from the records of an educational agency relating to the annual professional performance reviews of classroom teachers or principals that is confidential and not subject to release under the provisions of N.Y. Education Law §§ 3012-c and 3012-d. For purposes of this Schedule, "teacher or principal data" includes information made accessible to Vendor by OCM BOCES, OCM BOCES officers, OCM BOCES employees, OCM BOCES agents, OCM BOCES students, and/or the officers, employees, agents, and/or students of educational agencies that contract with OCM BOCES in order to access Vendor's services.

o. "Unauthorized Disclosure" or "Unauthorized Release" means any disclosure or release not permitted by federal or state statute or regulation, any lawful contract or written agreement, or that does not respond to a lawful order of a court or tribunal or other lawful order.

2. Vendor agrees that the security, confidentiality, and integrity of student data and/or teacher or principal data shall be maintained in accordance with:

a. Applicable state and federal laws that protect the confidentiality of Personally Identifiable Information;

b. The terms and conditions of this Agreement, including but not limited to the OCM BOCES Parents Bill of Rights for Data Security and Privacy and the Supplemental Information to Parents Bill or Rights for Data Privacy and Security, attached hereto as Exhibit A and incorporated by reference; and

c. Applicable OCM BOCES policies, which can be accessed on the OCM BOCES website at: https://go.boarddocs.com/ny/ocmboces/Board.nsf/Public.

3. Vendor may use subcontractors in fulfilling its responsibilities to OCM BOCES, its employees or agents, and/or educational agencies which contract with OCM BOCES for the provision of Vendor's services; however, as a condition precedent to assigning subcontractors to provide services hereunder, Vendor shall ensure any such subcontractors providing services have executed an agreement with Vendor that holds them to substantially similar terms and conditions as contained in this Agreement.

4. Vendor agrees that it will disclose student data and/or teacher or principal data only to those officers or employees who need access to provide the contracted services. Vendor further agrees that any of its officers or employees who have access to Personally Identifiable Information will receive

training on the federal and state laws governing confidentiality of such data prior to receiving access to that data which shall include but not be limited to security awareness training to all staff on topics, including Personally Identifiable Information and requirements under New York State law. Training shall be conducted on an annual, new hire basis with monthly micro-learning engagements.

5.      The exclusive purpose for which Vendor is being provided access to Personally Identifiable Information is to provide access to its proprietary platform for measuring social-emotional learning (SEL), presenting trends across SEL, attendance, academic, and behavior indicators, managing MTSS and interventions to improve student outcomes and track student progress, and monitoring progress towards graduation. Vendor does not monitor or use customer content for any reason other than as part of providing its services.

6.      Student data and/or teacher or principal data received by Vendor shall not be disclosed, or sold for a Commercial or Marketing Purpose.

7.      Term and Termination. This Schedule "B" between Vendor and OCM BOCES shall expire on the one (1) year anniversary of the Agreement and shall automatically renew for one (1) year successor terms unless the Agreement (and all Service Orders) are terminated.

8.      Upon expiration or termination of this Agreement (and all Service Orders) without a successor agreement in place, if applicable and requested by OCM BOCES in writing, Vendor shall reasonably assist OCM BOCES and any educational agencies that contracts with OCM BOCES for the provision of Vendor's services in exporting any and all student data and/or teacher or principal data previously received by Vendor back to OCM BOCES or the educational agency that generated the student data and/or principal data. Vendor shall thereafter securely delete or otherwise destroy any and all student data and/or teacher or principal data remaining in the possession of Vendor or its assignees or subcontractors (including all hard copies, archived copies, electronic versions or electronic imaging of hard copies of such data) as well as any and all student data and/or teacher or principal data maintained on behalf of Vendor in secure data center facilities. Vendor shall ensure that no copy, summary, or extract of the student data and/or teacher or principal data or any related work papers are retained on any storage medium whatsoever by Vendor, its subcontractors or assignees, or the aforementioned secure data center facilities. Any and all measures related to the extraction, transmission, deletion, or destruction of student data and/or teacher or principal data will be completed within 30 days of the expiration/termination of this Schedule between OCM BOCES and Vendor, and will be accomplished in accordance with NIST 800-88. To the extent that Vendor may continue to be in possession of any de-identified data (*i.e.*, data that has had all direct and indirect identifiers removed), they agree not to attempt to re-identify de-identified data and not to transfer de-identified data to any party. Upon written request, Vendor and/or its subcontractors or assignees will provide a certification to OCM BOCES from an appropriate officer that the requirements of this paragraph have been satisfied in full.

9.      In the event that a parent, student, or eligible student wishes to challenge the accuracy of student data concerning that student or eligible student, that challenge shall be processed through the procedures provided by OCM BOCES or the educational agency that generated the student data for amendment of education records under the Family Educational Rights and Privacy Act (FERPA). In the event that a teacher or principal wishes to challenge the accuracy of the teacher or principal data that is collected, he or she may do so consistent with applicable provisions of 8 N.Y.C.R.R. Part 30 and the applicable educational agency's Annual Professional Performance Review Plan.

10.     Student data and/or teacher or principal data transferred to Vendor will be stored in electronic format on systems maintained by Vendor in a secure data center facility located in the United States. In

order to protect the privacy and security of student data and/or teacher or principal data stored in that manner, Vendor will take measures aligned with industry best practices and the NIST Cybersecurity Framework Version 1.1. Such measures shall include, but are not necessarily be limited to disk encryption, file encryption, firewalls, and password protection.

11.    Vendor acknowledges that it has the following obligations with respect to any student data and/or teacher or principal data provided by OCM BOCES and/or the educational agencies which contract with OCM BOCES for the provision of Vendor's services, and any failure to fulfill one of these obligations set forth in New York State Education Law § 2-d and/or 8 N.Y.C.R.R. Part 121 shall also constitute a breach of its agreement with OCM BOCES:

a.     Limit internal access to education records to those individuals that are determined to have legitimate educational reasons within the meaning of § 2-d and the Family Educational Rights and Privacy Act;

b.     Not use, sell, disclose or facilitate the use of Personally Identifiable Information, education records/and or student data for any purpose (including for a Commercial or a Marketing Purpose) other than those explicitly authorized in this Agreement;

c.     Not disclose any Personally Identifiable Information to any other party who is not an authorized representative of Vendor using the information to carry out Vendor's obligations under this Agreement, unless (i) that other party has the prior written consent of the parent or eligible student, or (ii) the disclosure is required by statute or court order, and notice of the disclosure is provided to the source of the information no later than the time of disclosure, unless such notice is expressly prohibited by the statute or court order;

d.     Maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of Personally Identifiable Information in its custody;

e.     Use encryption technology to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the secretary of the U S. Department of HHS in guidance issued under P.L. 111-5, Section 13402(H)(2);

f.     Notify OCM BOCES, and any educational agency that contracts with OCM BOCES for Vendor's services, of any Breach, in the most expedient way possible and without unreasonable delay, but not more than seven (7) calendar days after discovery of the Breach;

g.     Where a Breach is attributable to Vendor, Vendor will pay or reimburse OCM BOCES and/or any educational agencies which contract with OCM BOCES for the provision of Vendor's services for the cost of any notifications OCM BOCES and/or such other educational agencies is/are required to make by applicable law, rule, or regulation; and

h.     Vendor will cooperate with OCM BOCES, any educational agency that contracts with OCM BOCES for Vendor's services, and law enforcement to protect the

integrity of investigations into the Breach of Personally Identifiable Information.

12. In the event of a data Breach implicating the Personally Identifiable Information of students, teachers, and/or principals of OCM BOCES or educational agencies which contract with OCM BOCES for the provision of Vendor's services:

   a. Vendor has an Incident Response Policy that is established to require the creation and maintenance of a structured Incident Response Plan to guide its response to security events, incidents, and breaches of the security of Vendor's services or corporate IT infrastructure.

   Security incidents are reported and monitored by Vendor.

   b. Vendor will notify OCM BOCES, and any educational agency that contracts with OCM BOCES for Vendor's services, of any such incident in accordance with Education Law § 2-d, 8 N.Y.C.R.R. Part 121, and paragraph 11(f), above.

13. This Schedule, together with the Agreement, the signed Parents Bill of Rights for Data Privacy and the Security and Supplemental Information to Parents Bill or Rights for Data Privacy and Security, constitutes the entire understanding of the Parties with respect to the subject matter thereof. The terms of this SCHEDULE, together with the signed Parents Bill of Rights for Data Privacy and the Security and Supplemental Information to Parents Bill or Rights for Data Privacy and Security, shall supersede any conflicting provisions of Vendor's Service Order. For the avoidance of doubt, notwithstanding any provision in the Agreement, including without limitation this Schedule, the total and aggregate liability of either party under the Agreement, including without limitation this Schedule, is and shall remain subject to the limitations of liability provisions set out in the Service Order; provided however, notwithstanding any provision in the Service Order, if applicable state and/or federal laws limit the application of the limitations of liability provisions set out in the Service Order, a party's liability will be limited to the maximum extent permissible under such laws.

14. If any provision of this SCHEDULE shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision to this SCHEDULE is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

15. This SCHEDULE shall be governed by the laws of the State of New York. The Parties hereto agree that exclusive venue for any litigation, action or proceeding arising from or relating to this Schedule shall lie in the state and federal courts located in Onondaga County, New York, and the Parties expressly waive any right to contest such venue for any reason whatsoever.

In witness of the foregoing, the duly authorized representatives of the Parties have signed this Schedule as of the Effective Date set forth above.

**VENDOR**  **OCM BOCES**

By: _Michael Reynolds_    By: _Suzanne Slack_

Name: Michael Reynolds    Name: Suzanne Slack

Title: Senior Manager, Contract Operations.    Title: Assistant Superintendent for Administration

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