GENERAL OFFER OF PRIVACY TERMS

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and

Santa Paula USD

("Originating LEA") which is dated Jun 27, 2022   , to any other LEA ("Subscribing LEA") who accepts this General Offer of Privacy Terms ("General Offer") through its signature below. This General Offer shall extend only to privacy protections, and Provider's signature shall not necessarily bind Provider to other terms, such as price, term, or schedule of services, or to any other provision not addressed in this DPA. The Provider and the Subscribing LEA may also agree to change the data provided by Subscribing LEA to the Provider to suit the unique needs of the Subscribing LEA. The Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statues; (2) a material change in the services and products listed in the originating Service Agreement; or three (3) years after the date of Provider's signature to this Form. Subscribing LEAs should send the signed **Exhibit "E"** to Provider at the following email address:

kmallett@panoramaed.com
_____.

PROVIDER: Panorama Education, Inc._____

BY: _____ *Katie Mallett* _____ Date: 06-28-2022 _____

Printed Name: _Katie Mallett_____ Title/Position: __President_____

2. Subscribing LEA

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA and the Provider shall therefore be bound by the same terms of this DPA for the term of the DPA between the   Santa Paula USD

and the Provider. **PRIOR TO ITS EFFECTIVENESS, SUBSCRIBING LEA MUST DELIVER NOTICE OF ACCEPTANCE TO PROVIDER PURSUANT TO ARTICLE VII, SECTION 5. **

LEA: Murrieta Valley Unified School District_____

BY: _____ *Jonathan Pratt* _____ Date: 07-11-2022 _____

Printed Name: _Jonathan Pratt_____ Title/Position: Chief Technology Officer_____

SCHOOL DISTRICT NAME: Murrieta Valley Unified School District_____

DESIGNATED REPRESENTATIVE OF LEA:

Name: Jonathan Pratt_____

Title: Chief Technology Officer_____

Address: 41870 McAlby Ct Murrieta CA 92592_____

Telephone Number: 951-696-1600_____

Email: jpratt@murrieta.k12.ca.us_____

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LEA and Provider agree to the following additional terms and modifications:

WHEREAS, the Provider is providing educational or digital services to LEA.

WHEREAS, the Provider and LEA recognize the need to protect personally identifiable student information and other regulated data exchanged between them as required by applicable laws and regulations, such as the Family Educational Rights and Privacy Act ("**FERPA**") at 20 U.S.C. § 1232g (34 CFR Part 99);
the Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. § 6501-6506 (16 CFR Part 312), <u>and</u> applicable state privacy laws and regulations
and

WHEREAS, the Provider and LEA desire to enter into this DPA for the purpose of establishing their respective obligations and duties in order to comply with applicable laws and regulations.

NOW THEREFORE, for good and valuable consideration, LEA and Provider agree as follows:

1. A description of the Services to be provided, the categories of Student Data that may be provided by LEA to Provider, and other information specific to this DPA are contained in the Standard Clauses hereto.

2. **Special Provisions. *Check if Required***

   [√]   If checked, the Supplemental State Terms ~~and~~ attached hereto as **Exhibit "G"** are hereby incorporated by reference into this DPA in their entirety.

   [√]   If Checked, the Provider, has signed **Exhibit "E"** to the Standard Clauses, otherwise known as General Offer of Privacy Terms

3. In the event of a conflict between the SDPC Standard Clauses, the State or Special Provisions will control. In the event there is conflict between the terms of the DPA and any other writing, including, but not limited to the Service Agreement and Provider Terms of Service or Privacy Policy the terms of this DPA shall control.

ARTICLE I: PURPOSE AND SCOPE

   3. 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 any other writing, including, but not limited to the Service Agreement, Terms of Service, Privacy Policies etc.

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

2. <u>Parent Access</u>. To the extent required by law the LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Education Records and/or Student Data <u>and/or</u> correct erroneous information, and procedures for the transfer of ~~s~~Student ~~g~~Generated ~~c~~Content to a personal account, consistent with the functionality of <u>the</u> ~~s~~Services. Provider shall respond in a reasonably timely manner (and no later than forty five (45) days from the date of the request or pursuant to the time frame required under state law for an LEA to respond to a parent or student, whichever is sooner) to the LEA's request for Student Data in a student's records held by the Provider to view or correct as necessary. In the event that a parent of a student or other individual contacts the Provider to review any of the 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.

ARTICLE III: DUTIES OF LEA

2. <u>Annual Notification of Rights.</u> If the LEA has a policy of disclosing Education R~~r~~ecords and/or Student Data under FERPA (34 CFR § 99.31(a)(1)), LEA shall include a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest in its annual notification of rights.

3. <u>Reasonable Precautions.</u> LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the ~~s~~Services and hosted Student Data.

ARTICLE IV: DUTIES OF PROVIDER

4. <u>No Disclosure.</u> Provider acknowledges and agrees that it shall not make any re-disclosure of any Student Data or any portion thereof, including without limitation, user content or other non-public information and/or personally identifiable information contained in the Student Data other than as directed or permitted by the LEA or this DPA. This prohibition against disclosure shall not apply to aggregate summaries of De-Identified ~~information~~ <u>Data</u>, Student Data disclosed pursuant to a lawfully issued subpoena or other legal process, or to subprocessors performing services on behalf of the Provider pursuant to this DPA. Provider will not ~~s~~Sell Student Data to any third party.

5. <u>De-Identified Data:</u> Provider agrees not to attempt to re-identify de-identified Student Data. De-Identified Data may be used by the Provider for those purposes allowed under FERPA and the following purposes:
(1) assisting the LEA or other governmental agencies in conducting research and other studies; and (2) research and development of the Provider's educational sites, services, or applications, and to demonstrate the effectiveness of the Services; and (3) for adaptive learning purpose and for customized student learning. Provider's use of De-Identified Data shall survive termination of this DPA or any request by LEA to return or ~~destroy~~ <u>dispose of</u> Student Data. Except for Subprocessors, Provider agrees 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. Prior to publishing any document that names the LEA explicitly or indirectly, the

Provider shall obtain the LEA's written approval of the manner in which de-identified data is presented.

ARTICLE V: DATA PROVISIONS

2. <u>Audits.</u> No more than once a year, or following unauthorized access, ~~upon receipt of a written request from the LEA with at least ten (10) business days' notice and upon the execution of an appropriate confidentiality agreement, the Provider will allow the LEA to audit the security and privacy measures that are in place to ensure protection of Student Data or any portion thereof as it pertains to the delivery of services to the LEA.~~ <u>the LEA may make reasonable inquiries of the Provider regarding the use of the LEA's Student Data and the security measures undertaken by the Provider to protect said Student Data.</u> The Provider will <u>also</u> cooperate reasonably with the LEA and any local, state, or federal agency with oversight authority or jurisdiction in connection with any audit or investigation of the Provider and/or delivery of Services to students and/or LEA, and shall provide reasonable 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 LEA. Failure to reasonably cooperate shall be deemed a material breach of the DPA.

3. <u>Data Security</u>. The Provider agrees to utilize administrative, physical, and technical safeguards <u>consistent with industry standards and</u> designed to protect Student Data from unauthorized access, disclosure, acquisition, destruction, use, or modification. The Provider shall adhere to any applicable law relating to data security. The provider shall implement an adequate Cybersecurity Framework <u>that may be</u> based on one of the nationally recognized standards set forth in **Exhibit "F"**. Exclusions, variations, or exemptions to the identified Cybersecurity Framework ~~must~~ <u>may</u> be detailed in an attachment to **Exhibit "H"**. Additionally, Provider may choose to further detail its security programs and measures that augment or are in addition to the Cybersecurity Framework in **Exhibit "F"**. Provider shall provide, in the Standard Schedule to the DPA, contact information of an employee who LEA may contact if there are any data security concerns or questions.

4. <u>Data Breach.</u> In the event of an unauthorized release, disclosure or acquisition of Student Data that compromises the security, confidentiality or integrity of the Student Data maintained by the Provider the Provider shall provide notification to LEA within seventy-two (72) hours of confirmation of the incident, unless notification within this time limit would disrupt investigation of the incident by law enforcement. In such an event, notification shall be made within a reasonable time after the incident. Provider shall follow the following process:

(1)   The security breach notification described above shall include, at a minimum, the following information to the extent known by the Provider and as it becomes available:

i. The name and contact information of the reporting LEA subject to this section.
ii. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
iii. If the information is possible to determine at the time the notice is provided, then either
(1) the date of the breach, (2) the estimated date of the breach, or (3) the date range within which the breach occurred. The notification shall also include the date of the notice.

iv. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided; and

v. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(2) Provider agrees to adhere to all federal and state 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.

(3) Provider further acknowledges and agrees to have a written incident response plan that reflects ~~best~~ industry standard 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 provide LEA, upon written request, with a summary of said written incident response plan.

(4) LEA shall provide notice and facts surrounding the breach to the affected students, parents or guardians.

(5) In the event of a breach originating from LEA's use of the Service, Provider shall cooperate with LEA to the extent necessary to expeditiously secure Student Data.

ARTICLE VII: MISCELLANEOUS

1. Termination. In the event that either Party seeks to terminate this DPA, they may do so by mutual written consent so long as the Service Agreement has lapsed or has been terminated. Either party may terminate this DPA and any related service agreement or contract if the other party breaches any terms of this DPA.

2. Effect of Termination Survival. If the Service Agreement is terminated, the Provider shall ~~destroy~~ dispose of all of LEA's Student Data pursuant to Article IV, section 6.

ARTICLE VII: MISCELLANEOUS

4. Entire Agreement. This DPA and the Service Agreement constitute 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. The total and aggregate liability and indemnity obligations of either Party under this DPA is and shall remain subject to the exclusions, limitations of liability and indemnity provisions set out in the applicable Service Agreement.

8. Authority. Each party represents that it is authorized to bind to the terms of this DPA, including confidentiality and ~~destruction~~ disposition of Student Data and 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.

EXHIBIT "C"
DEFINITIONS

Educational or Education Records: Educational Records are records, files, documents, and other materials directly related to a student and maintained by the school or local education agency, or by a person acting for such school or local education agency, including but not limited to, records encompassing all the material kept in the student's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement, and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

Metadata: means information that provides meaning and context to other data being collected; including, but not limited to: date and time records and purpose of creation. Metadata that have been stripped of all direct and indirect identifiers are not considered ~~P~~personally ~~I~~identifiable ~~I~~information.

Student Generated Content: The term "student-generated content" means materials or content created by a student in the services 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 student content does not include pupil responses to a standardized assessment where pupil possession and control would jeopardize the validity and reliability of that assessment.

School Official: For the purposes of this DPA and pursuant to 34 CFR § 99.31(a)(1)(i)(B~~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 Student Data including Education Records; and (3) Is subject to 34 CFR § 99.33(a) governing the use and re-disclosure of personally identifiable information from Education Records.

Service Agreement: Refers to the ~~c~~Contract, ~~p~~Purchase ~~o~~Order or ~~t~~Terms of ~~s~~Service or ~~t~~Terms of ~~u~~Use.

Subscribing LEA: An LEA that was not party to the original ~~Service Agreement~~ DPA and who accepts the Provider's General Offer of Privacy Terms.

EXHIBIT "E"
GENERAL OFFER OF PRIVACY TERMS

2. Subscribing LEA

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA and the Provider shall therefore be bound by the same terms of this DPA for the term of the DPA between the

[School District (LEA).Company]

and the Provider. **PRIOR TO ITS EFFECTIVENESS, SUBSCRIBING LEA MUST DELIVER NOTICE OF ACCEPTANCE TO PROVIDER PURSUANT TO ARTICLE VII, ~~SECTION 5~~. **

EXHIBIT "G"

2. Modification to Article IV, Section 7 of the DPA. Article IV, Section 7 of the DPA (Advertising Limitations) is amended by deleting the stricken text as follows: Provider is prohibited from using, disclosing, or selling Student Data to (a) inform, influence, or enable Targeted Advertising; or (b) develop a profile of a student, family member/guardian or group, for any purpose other than providing the Service to LEA. Targeted Advertising is strictly prohibited. However, this section does not prohibit Provider from using Student Data (i) for adaptive learning or customized student learning (including generating personalized learning recommendations); or (ii) to make product recommendations to teachers or LEA employees that are not considered Targeted Advertising; or (iii) to notify account holders about new education product updates, features, or services that are not considered Targeted Advertising or from otherwise using Student Data as permitted in this DPA and its accompanying exhibits.