



EXHIBIT A: DATA SHARING AND CONFIDENTIALITY AGREEMENT

Including

**Washington-Saratoga-Warren-Hamilton-Essex BOCES Bill of Rights for Data Security and Privacy
and**

**Supplemental Information about a Master Agreement between
Washington-Saratoga-Warren-Hamilton-Essex BOCES and Brisk Teaching**

1. Purpose

(a) **Washington-Saratoga-Warren-Hamilton-Essex BOCES, and on behalf of its subscribed school districts (see Exhibit B)** (hereinafter “District”) and Brisk Teaching (hereinafter “Brisk Teaching”) are parties to a contract, Terms of Service, or other written agreement pursuant to which Brisk Teaching will receive student data and/or teacher or principal data that is protected under New York Education Law Section 2-d and Part 121 of the Regulations of the Commissioner of Education (collectively referred to as “Section 2-d”) from the District for purposes of providing certain products or services to the District (the “Master Agreement”).

(b) This Exhibit supplements the Master Agreement to which it is attached, to ensure that the Master Agreement conforms to the requirements of Section 2-d. This Exhibit consists of a Data Sharing and Confidentiality Agreement, a copy of the District’s Bill of Rights for Data Security and Privacy signed by Brisk Teaching, and the Supplemental Information about the Master Agreement between **Washington-Saratoga-Warren-Hamilton-Essex BOCES and its subscribed school districts (see Exhibit B)** and Brisk Teaching that the District is required by Section 2-d to post on its website.

(c) In consideration of the mutual promises set forth in the Master Agreement, Brisk Teaching agrees that it will comply with all terms set forth in the Master Agreement and this Exhibit. To the extent that any terms contained in the Master Agreement, or any terms contained in any other Exhibit(s) attached to and made a part of the Master Agreement, conflict with the terms of this Exhibit, the terms of this Exhibit will apply and be given effect. In addition, in the event that Brisk Teaching has online or written Privacy Policies or Terms of Service (collectively, “TOS”) that would otherwise be applicable to its customers or users of the products or services that are the subject of the Master Agreement between the District and Brisk Teaching, to the extent that any terms of the TOS, that are or may be in effect at any time during the term of the Master Agreement, conflict with the terms of this Exhibit, the terms of this Exhibit will apply and be given effect.

2. Definitions

As used in this Exhibit:

(a) "Student Data" means personally identifiable information, as defined in Section 2-d, from student records that Brisk Teaching may receive from the District pursuant to the Master Agreement.

(b) "Teacher or Principal Data" means personally identifiable information, as defined in Section 2-d, relating to the annual professional performance reviews of classroom teachers or principals that Brisk Teaching may receive from the District pursuant to the Master Agreement.

(c) "Protected Data" means Student Data and/or Teacher or Principal Data, to the extent applicable to the product or service actually being provided to the District by Brisk Teaching pursuant to the Master Agreement.

(d) "NIST Cybersecurity Framework" means the U.S. Department of Commerce National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity (Version 1.1).

3. Confidentiality of Protected Data

(a) Brisk Teaching acknowledges that the Protected Data it receives pursuant to the Master Agreement originates from the District and that this Protected Data belongs to and is owned by the District.

(b) Brisk Teaching will maintain the confidentiality of the Protected Data it receives in accordance with federal and state law (including but not limited to Section 2-d) and the District's policy on data security and privacy. The District's policy on data security and privacy is available on the district website and at the following link: [WSWHE BOCES Board of Education Policy #6810: Privacy & Security of Student Data, Teacher Data & Principal Data](#)

4. Data Security and Privacy Plan

As more fully described herein, throughout the term of the Master Agreement, Brisk Teaching will have a Data Security and Privacy Plan in place to protect the confidentiality, privacy and security of the Protected Data it receives from the District.

Brisk Teaching's Plan for protecting the District's Protected Data includes, but is not limited to, its agreement to comply with the terms of the District's Bill of Rights for Data Security and Privacy, a copy of which is set forth below and has been signed by the Brisk Teaching.

Additional components of Brisk Teaching's Data Security and Privacy Plan for protection of the District's Protected Data throughout the term of the Master Agreement are as follows:

(a) Brisk Teaching will implement all state, federal, and local data security and privacy requirements including those contained within the Master Agreement and this Data Sharing and Confidentiality Agreement, consistent with the District's data security and privacy policy.

(b) Brisk Teaching will have specific administrative, operational and technical safeguards and

practices in place to protect Protected Data that it receives from the District under the Master Agreement.

(c) Brisk Teaching will comply with all obligations contained within the section set forth in this Exhibit below entitled “Supplemental Information about a Master Agreement between **Washington-Saratoga-Warren-Hamilton-Essex BOCES** and Brisk Teaching”. Brisk Teaching’s obligations described within this section include, but are not limited to:

- i. its obligation to require subcontractors or other authorized persons or entities to whom it may disclose Protected Data (if any) to execute written agreements acknowledging that the data protection obligations imposed on Brisk Teaching by state and federal law and the Master Agreement shall apply to the subcontractor, and
- ii. its obligation to follow certain procedures for the return, transition, deletion and/or destruction of Protected Data upon termination, expiration or assignment (to the extent authorized) of the Master Agreement.

(d) Brisk Teaching has provided or will provide training on the federal and state laws governing confidentiality of Protected Data for any of its officers or employees (or officers or employees of any of its subcontractors or assignees) who will have access to Protected Data, prior to their receiving access.

(e) Brisk Teaching will manage data security and privacy incidents that implicate Protected Data and will develop and implement plans to identify breaches and unauthorized disclosures. Brisk Teaching will provide prompt notification to the District of any breaches or unauthorized disclosures of Protected Data in accordance with the provisions of Section 5 of this Data Sharing and Confidentiality Agreement.

5. Notification of Breach and Unauthorized Release

(a) Brisk Teaching will promptly notify the District of any breach or unauthorized release of Protected Data it has received from the District in the most expedient way possible and without unreasonable delay, but no more than seven (7) calendar days after Brisk Teaching has discovered or been informed of the breach or unauthorized release.

(b) Brisk Teaching will provide such notification to the District by contacting **Cecilia Dansereau Rumley, Director for Data Privacy & Professional Learning** directly by email at **cdansereau-rumley@wswebores.org** or by calling **518-581-3518**.

(c) Brisk Teaching will cooperate with the District and provide as much information as possible directly to **Cecilia Dansereau Rumley** or his/her designee about the incident, including but not limited to: a description of the incident, the date of the incident, the date Brisk Teaching discovered or was informed of the incident, a description of the types of Protected Data involved, an estimate of the number of records affected, the schools within the District affected, what the Brisk Teaching has done or plans to do to investigate the incident, stop the breach and mitigate any further unauthorized access or release of Protected Data, and contact information for Brisk Teaching representatives who can assist affected

individuals that may have additional questions.

(d) Brisk Teaching acknowledges that upon initial notification from Brisk Teaching, the District, as the educational agency with which Brisk Teaching contracts, has an obligation under Section 2-d to in turn notify the Chief Privacy Officer in the New York State Education Department (“CPO”). Brisk Teaching agrees not to provide this notification to the CPO directly unless requested by the District or otherwise required by law. In the event the CPO contacts Brisk Teaching directly or requests more information from Brisk Teaching regarding the incident after having been initially informed of the incident by the District, Brisk Teaching will promptly inform **Cecilia Dansereau Rumley** or his/her designee.

6. Additional Statutory and Regulatory Obligations

Brisk Teaching acknowledges that it has the following additional obligations under Section 2-d with respect to any Protected Data received from the District, and that any failure to fulfill one or more of these statutory or regulatory obligations will be deemed a breach of the Master Agreement and the terms of this Data Sharing and Confidentiality Agreement:

(a) To limit internal access to Protected Data to only those employees or subcontractors that are determined to have legitimate educational interests within the meaning of Section 2-d and the Family Educational Rights and Privacy Act (FERPA); *i.e.*, they need access in order to assist Brisk Teaching in fulfilling one or more of its obligations to the District under the Master Agreement.

(b) To not use Protected Data for any purposes other than those explicitly authorized in this Data Sharing and Confidentiality Agreement and the Master Agreement to which this Exhibit is attached.

(c) To not disclose any Protected Data to any other party, except for authorized representatives of Brisk Teaching using the information to carry out Brisk Teaching’s obligations to the District and in compliance with state and federal law, regulations and the terms of the Master Agreement, unless:

- (i) the parent or eligible student has provided prior written consent; or
- (ii) the disclosure is required by statute or court order and notice of the disclosure is provided to the District no later than the time of disclosure, unless such notice is expressly prohibited by the statute or court order.

(d) To maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of Protected Data in its custody.

(e) To use encryption technology to protect Protected Data in its custody while in motion or at rest, using a technology or methodology specified by the Secretary of the U.S. Department of Health and Human Services in guidance issued under Section 13402(H)(2) of Public Law 111-5.

(f) To adopt technologies, safeguards and practices that align with the NIST Cybersecurity Framework.

(g) To comply with the District’s policy on data security and privacy, Section 2-d and Part 121.

(h) To not sell Protected Data nor use or disclose Student Data for any marketing or commercial purpose or facilitate its use or disclosure by any other party for any marketing or commercial purpose or permit another party to do so.

(i) To notify the District, in accordance with the provisions of Section 5 of this Data Sharing and Confidentiality Agreement, of any breach of security resulting in an unauthorized release of Protected Data by Brisk Teaching or its assignees or subcontractors in violation of applicable state or federal law, the District's Bill of Rights for Data Security and Privacy, the District's policies on data security and privacy, or other binding obligations relating to data privacy and security contained in the Master Agreement and this Exhibit.

(j) To cooperate with the District and law enforcement to protect the integrity of investigations into the breach or unauthorized release of Protected Data.

(k) To pay for or promptly reimburse the District for the full cost of notification, in the event the District is required under Section 2-d to notify affected parents, students, teachers or principals of a breach or unauthorized release of Protected Data attributed to Brisk Teaching or its subcontractors or assignees.

Washington-Saratoga-Warren-Hamilton-Essex BOCES EDUCATION LAW §2-d Bill of Rights for Data Security and Privacy

The **Washington-Saratoga-Warren-Hamilton-Essex BOCES** is committed to protecting the privacy and security of student data and teacher and principal data. In accordance with New York Education Law Section 2-d and its implementing regulations, the District informs the school community of the following:

Parents (including legal guardians or persons in parental relationships) and Eligible Students (students 18 years and older) can expect the following:

1. A student's personally identifiable information (PII) cannot be sold or released for any commercial purpose. PII, as defined by Education Law § 2-d and FERPA, includes direct identifiers such as a student's name or identification number, parent's name, or address; and indirect identifiers such as a student's date of birth, which when linked to or combined with other information can be used to distinguish or trace a student's identity. Please see FERPA's regulations at 34 CFR 99.3 for a more complete definition.
2. The right to inspect and review the complete contents of the student's education record stored or maintained by an educational agency. This right may not apply to parents of an Eligible Student.
3. State and federal laws such as Education Law § 2-d; the Commissioner of Education's Regulations at 8 NYCRR Part 121, the Family Educational Rights and Privacy Act ("FERPA") at 12 U.S.C. 1232g (34 CFR Part 99); Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. 6501-6502 (16 CFR Part 312); Protection of Pupil Rights Amendment ("PPRA") at 20 U.S.C. 1232h (34 CFR Part 98); the Individuals with Disabilities Education Act ("IDEA") at 20 U.S.C. 1400 et seq. (34 CFR Part 300); protect the confidentiality of a student's identifiable information.
4. Safeguards associated with industry standards and best practices including but not limited to encryption, firewalls and password protection must be in place when student PII is stored or transferred.
5. A complete list of all student data elements collected by NYSED is available for public review at www.nysed.gov/data-privacy-security, and by writing to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.
6. The right to have complaints about possible breaches and unauthorized disclosures of student data addressed.
 - Contact WSWHE BOCES Data Protection Officer: Cecilia Dansereau-Rumley, Director for Data Privacy & Professional Learning, by email: cdansereau-rumley@wswhiboces.org, or by phone: 518-581-3518. Complaints should be submitted in writing using the form that is available on the BOCES website and in the BOCES offices.
 - Complaints may also be submitted to NYSED online at www.nysed.gov/data-privacy-security, by mail to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234, by email to privacy@nysed.gov, or by telephone at 518-474-0937.
7. To be notified in accordance with applicable laws and regulations if a breach or unauthorized release of their student's PII occurs.
8. Educational agency workers that handle PII will receive training on applicable state and federal laws, the educational agency's policies, and safeguards associated with industry standards and best practices that protect PII.
9. Educational agency contracts with Brisk Teachings that receive PII will address statutory and regulatory data

privacy and security requirements.

BY THE BY Risk Teaching:

Arman Jaffer

Arman Jaffer

Name (Print)

Signature

CEO

1/16/2024

Title Date

EXHIBIT A (CONTINUED)

Supplemental Information about a Master Agreement between Washington-Saratoga-Warren-Hamilton-Essex BOCES and Brisk Teaching

Washington-Saratoga-Warren-Hamilton-Essex BOCES and its subscribed school districts (see Exhibit B) has entered into a Master Agreement with Brisk Teaching, which governs the availability to the District of the following products or services:

Brisk Teaching
software, and/or apps, and/or technology tools, and/or web-services

Pursuant to the Master Agreement (which includes a Data Sharing and Confidentiality Agreement), the District may provide to Brisk Teaching, and Brisk Teaching will receive, personally identifiable information about students and/or teachers and principals that is protected by Section 2-d of the New York Education Law (“Protected Data”).

Exclusive Purposes for which Protected Data will be Used: The exclusive purpose for which Brisk Teaching is receiving Protected Data from the District is to provide the District with the functionality of the products or services listed above. Brisk Teaching will not use the Protected Data for any other purposes not explicitly authorized above or within the Master Agreement.

Oversight of Subcontractors: In the event that Brisk Teaching engages subcontractors or other authorized persons or entities to perform one or more of its obligations under the Master Agreement (including subcontracting hosting of the Protected Data to a hosting service provider), it will require those subcontractors or other authorized persons or entities to whom it will disclose the Protected Data to execute legally binding agreements acknowledging their obligation under Section 2-d of the New York Education Law to comply with all applicable data protection, privacy and security requirements required of Brisk Teaching under the Master Agreement and applicable state and federal law and regulations.

Duration of Agreement and Protected Data Upon Termination or Expiration:

- The Master Agreement commences on 12/08/2023 and expires on 06/30/2026.
- Upon expiration of the Master Agreement without renewal, or upon termination of the Master Agreement prior to its expiration, Brisk Teaching will securely delete or otherwise destroy any and all Protected Data remaining in the possession of Brisk Teaching or any of its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data. If requested by the District, Brisk Teaching will assist the District in exporting all Protected Data previously received back to the District for its own use, prior to deletion, in such formats as may be requested by the District.
- In the event the Master Agreement is assigned to a successor Brisk Teaching (to the extent

authorized by the Master Agreement), the Brisk Teaching will cooperate with the District as necessary to transition Protected Data to the successor Brisk Teaching prior to deletion.

- Neither Brisk Teaching nor any of its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data will retain any Protected Data, copies, summaries or extracts of the Protected Data, or any de-identified Protected Data, on any storage medium whatsoever. Upon request, Brisk Teaching and/or its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data, as applicable, will provide the District with a certification from an appropriate officer that these requirements have been satisfied in full.

Challenging Accuracy of Protected Data: Parents or eligible students can challenge the accuracy of any Protected Data provided by the District to Brisk Teaching, by contacting the District regarding procedures for requesting amendment of education records under the Family Educational Rights and Privacy Act (FERPA). Teachers or principals may request to challenge the accuracy of APPR data provided to Brisk Teaching by following the appeal process in the District's applicable APPR Plan.

Data Storage and Security Protections: Any Protected Data that Brisk Teaching receives will be stored on systems maintained by Brisk Teaching, or by a subcontractor under the direct control of Brisk Teaching, in a secure data center facility located within the United States. The measures that Brisk Teaching (and, if applicable, its subcontractors) will take to protect Protected Data include adoption of technologies, safeguards and practices that align with the NIST Cybersecurity Framework, and safeguards associated with industry standards and best practices including, but not limited to, disk encryption, file encryption, firewalls, and password protection.

Encryption of Protected Data: Brisk Teaching (and, if applicable, its subcontractors) will protect Protected Data in its custody from unauthorized disclosure while in motion or at rest, using a technology or methodology that complies with Section 2-d of the New York Education Law.

Exhibit B:

School Districts Subscribed to the Washington-Saratoga-Warren-Hamilton-Essex BOCES Data Privacy & Security and/or Educational Technology and/or School Library Systems Cooperative Service Agreement(s)

Component School Districts Other Subscribing School Districts Argyle Central School
Beekmantown Central School Ballston Spa Central School Broadalbin-Perth Central School
Bolton Central School Deposit Central School Cambridge Central School Fonda-Fulton Central
School Corinth Central School Greater Amsterdam School Fort Ann Central School Johnstown
Central School Fort Edward Union Free School Ravena Coeymans Central School Galway
Central School Rensselaer City School Glens Falls City School Saranac Lake Central School
Glens Falls Common District Shenendehowa Central School Granville Central School Walton
Central School Greenwich Central School Windsor Central School Hadley-Luzerne Central
School Willsboro Central School Hartford Central School
Hoosick Falls Central School
Hudson Falls Central School
Indian Lake Central School
Johnsburg Central School
Lake George Central School
Lake Placid Central School
Mechanicville City School
Minerva Central School
Newcomb Central School
North Warren Central School
Queensbury Union Free School
Salem Central School
Saratoga Springs City Schools
Schuylerville Central School
South Glens Falls Central School
Stillwater Central School
Warrensburg Central School
Waterford-Halfmoon Union Free School
Whitehall Central School