

## **RIDER REGARDING PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION**

To the extent that the provisions of this Rider are inconsistent with the attached contract dated **March 6, 2020** between the Commack Union Free School District (“the District”) and **Oxford University Press** (“the Service Provider”) to which this Rider is attached, the provisions of this Rider will control. The Contract and this Rider are collectively hereinafter referred to as “the Agreement.”

### **1. Plan for Security and Protection of Personally Identifiable Information**

**A.** “District Data” means all information obtained by the Service Provider from the District or by the Service Provider in connection with the services provided by the Service Provider pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District, with the exception of publically identifiable information from student and personnel data.

**B.** “Personally Identifiable Information” or “PII” includes, but is not limited to: (i) a person’s name or address or the names or addresses of a student’s parents or other family members; (ii) any personal identifier (e.g., SSN, student number or biometric record); (iii) indirect identifiers (e.g., date of birth, place of birth, or mother’s maiden name); (iv) other information that alone or in combination is linked or linkable to a specific individual and would allow a reasonable person to identify the individual with reasonable certainty; and (v) any information requested by a person who the District or Service Provider reasonably believes knows the identity of the person to whom a record relates.

**C.** The Service Provider represents and warrants that it is fully familiar with and will comply with all District policies and State, federal and local laws, regulations, rules and requirements related to the confidentiality, security and privacy of District Data.

**D.** The Service Provider represents and warrants that District Data received by the Service Provider will be used only to perform Service Provider’s obligations pursuant to the Agreement and for no other purpose.

**E.** The Service Provider represents and warrants that it will only collect data from the District or District employees or other End Users (the term “End Users” means the individuals authorized by the District to access and use services provided by the Service Provider pursuant to the Agreement) that is necessary to fulfill the Service Provider’s duties pursuant to the Agreement.

**F.** The Parties agree that all rights including all intellectual property rights in and to District Data will remain the exclusive property of the District and that the Service Provider has a limited, non-exclusive license to use District Data solely to perform Service Provider’s services pursuant to the Agreement.

G. The Service Provider agrees not to sell District Data and agrees not to use any District Data to advertise or market to District employees or other End Users or use or allow any other person or entity to use District Data for any commercial or marketing purposes, other than to perform the Consultant's obligations pursuant to this Agreement. "Commercial or marketing purposes" means the sale of District Data or its use or disclosure, whether directly or indirectly, to derive a profit for advertising purposes or to develop, improve or market products or services.

H. The Service Provider agrees that, upon receipt of District Data, it will: (i) limit the Service Provider's internal access to District Data to employees with legitimate educational interests (*i.e.*, access will be limited to those employees who must access District Data to implement the terms of the Agreement); (ii) use District Data only for the purposes explicitly authorized by the Agreement; (iii) not disclose any PII from District Data to any other party (a party other than an employee with a legitimate educational interest) without the District's prior written consent (if necessary, the District will obtain the required consent(s) from third parties), unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order); (iv) maintain reasonable safeguards to maintain confidentiality of PII in District Data and adopt technologies, safeguards and practices that align with the required version of the National Institute of Standards and Technology Framework for Improving Critical Infrastructure and any other legally required cybersecurity frameworks or standards; (v) use legally mandated encryption technology to protect District Data from unauthorized disclosure; and (vi) store all District Data within the United States of America.

I. If the Service Provider has access to District Data that is subject to the Family Educational Rights and Privacy Act ("FERPA"), the Service Provider acknowledges that for purposes of the Agreement it will be designated as a "school official" with a "legitimate educational interest" pursuant to FERPA and its implementing regulations, and the Service Provider agrees to abide by the limitations and requirements imposed on school officials.

J. The Service Provider represents and warrants that it will comply with the District's Parents' Bill of Rights, as supplemented, to include information about the Agreement, a copy of which is annexed hereto as Exhibit A and is signed by the Parties.

K. The Service Provider represents and warrants that it has provided or, within 30 calendar days of the date of the Agreement and prior to allowing any of its employees access to District Data, will provide training, about the State and federal laws and regulations governing confidentiality of District Data to any employee who has access to District Data.

L. Except as prohibited by law, the Service Provider will: (i) immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by Service Provider seeking District Data; (ii) consult with the District regarding its response; (iii) cooperate with the District's reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and (iv) upon the District's request, provide the District with a copy of Service Provider's response.

M. Upon the District's request, the Service Provider agrees that it will promptly make any District Data held by the Service Provider available to the District.

N. The Service Provider agrees to notify the District of any breach of security resulting in an unauthorized release of PII from District Data by the Service Provider or the Service Provider's assignees or subcontractors. This notification will be made in the most expedient way possible and without delay. The Service Provider must also notify the District in writing of the breach of security. This written notification must be sent by the Service Provider within one calendar day of the breach of security resulting in an unauthorized release of PII from District Data and must be sent to the District by email to Mr. Jose Santiago at [JSantiago@commack.k12.ny.us](mailto:JSantiago@commack.k12.ny.us) and either personally delivered or sent by nationally recognized overnight carrier to the District. In the case of an unauthorized release of PII from District Data by the Service Provider or the Service Provider's assignees or subcontractors, the Service Provider must reimburse the District for all the District's costs associated with the District's obligation to notify the State's chief privacy officer, parents, students, teachers and/or principals of the unauthorized release.

O. The parties agree to execute an amendment to the Agreement if required for compliance with any new laws or regulations relating to the confidentiality, security and privacy of data.

P. To the fullest extent permitted by law, the Service Provider indemnifies and will defend (with counsel selected by the District) and hold harmless the District, its employees, agents, representatives and members of the Board of Education from any and all liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorney's fees and disbursements) arising from any claims, disputes, causes of action of whatever nature arising, in whole or in part, from the breach of Paragraph 1 of this Rider, or the District's notification obligations set forth above in Subparagraph M.

Q. All the provisions of Paragraph 1 of this Rider will survive the termination of the Agreement.

2. Term: The term of the Agreement is from **December 6, 2019 to December 31, 2028**, unless the Agreement is terminated earlier as herein provided. The Service Provider acknowledges that the District is under no obligation to renew the Agreement upon its expiration.

3. Entire Agreement/No End User Agreements: The Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, by and between the parties. In the event that the Service Provider enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with District employees or other End Users, those agreements and understandings will be null, void and without effect, and the terms of the Agreement will apply.

4. Termination: The Agreement may be terminated by the District immediately upon the

Service Provider's breach of the Service Providers obligations set forth in paragraph 1 of this Rider. Upon termination of the Agreement, the Service Provider is not entitled to any further payments hereunder.

5. Notices: Any notices required or permitted to be given pursuant to the terms of the Agreement must be in writing and either personally delivered or sent by nationally recognized overnight carrier to the parties at the following addresses:

To the Service Provider:

**Oxford University Press  
198 Madison Avenue  
New York, NY 10016  
Attention: Privacy Officer**

To the District:

**Commack Union Free School District  
PO Box 150  
Commack, New York 11725  
Attention: Superintendent of Schools**

With a copy to:

**Lamb & Barnosky, LLP  
534 Broadhollow Road, Suite 210  
P.O. Box 9034  
Melville, New York 11747  
Attention: Eugene R. Barnosky, Esq.**

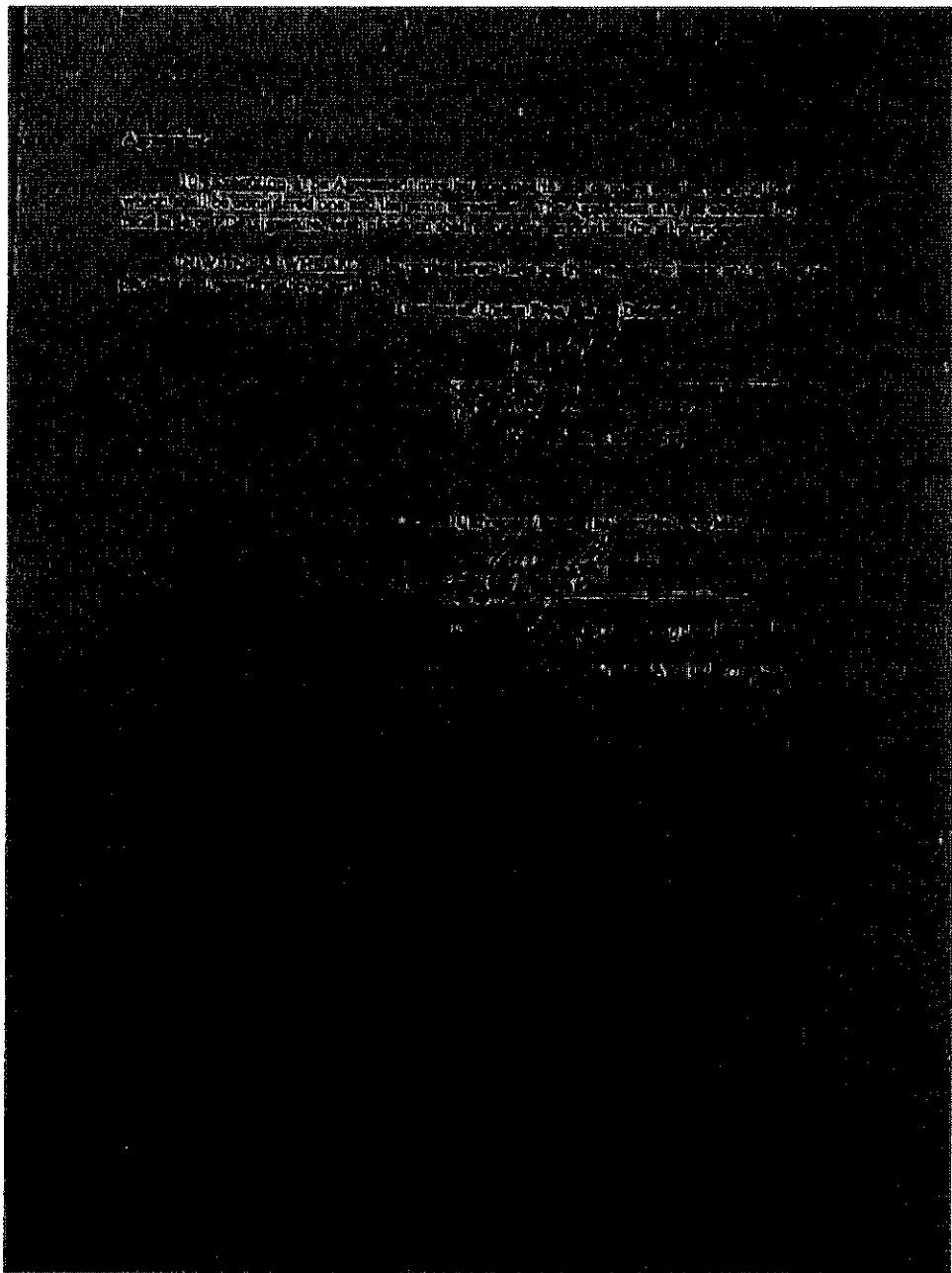
If the notice is sent by personal mail, it will be deemed delivered upon receipt and if sent by registered or certified mail, it shall be deemed delivered 3 days after so mailing.

6. Modification: The Agreement may not be changed orally, but only by an agreement in writing signed by the party or parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or provision of the Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.

7. Governing Law, Choice of Forum and Waiver of Jury Trial: The Agreement is subject to, governed by, enforced according to and construed according to the laws of the State of New York, without regard to the conflicts of laws provisions thereof. Any dispute arising under the Agreement will be litigated in a New York State Court in Suffolk County, New York. The parties each waive trial by jury in any action concerning the Agreement.

8. No Assignment: In accordance with the provisions of New York General Municipal Law § 109, the Service Provider is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of the Agreement, or of the Service Provider's rights, title, or interest in the Agreement, or the Service Provider's power to execute the Agreement to any other person or corporation without the previous consent in writing from the District.

9. Third-Party Beneficiaries: There are no third-party beneficiaries of or in the



**EXHIBIT A**  
**AGREEMENT BETWEEN OXFORD UNIVERSITY PRESS ("the Service Provider")**  
**and the**  
**COMMACK UNION FREE SCHOOL DISTRICT ("the District")**  
**TERM: DECEMBER 6, 2019 – DECEMBER 31, 2028**

**COMMACK'S PARENTS' BILL OF RIGHTS**  
**REGARDING DATA PRIVACY AND SECURITY**

Parents and guardians of students attending school in the Commack Union Free School District are advised that they have the following rights with regard to student data:

- (1) Student data will not be released or sold by the District for commercial purposes.
- (2) A parent or guardian has the right to inspect and review the complete contents of his or her child's education record.
- (3) State and Federal law protect the confidentiality of personally identifiable information. The District utilizes the following safeguards to protect personally identifiable information: password protection and encryption.
- (4) A list of all student data elements collected by New York State is available for public view at <http://www.p12.nysed.gov/irs/sirs/home.html> (SIRS Bullet #2 - NYSED Student Data Elements List) or by writing to Mr. Jose Santiago at 480 Clay Pitts Road, East Northport, NY 11731.
- (5) Parents and guardians have the right to have complaints about possible breaches of student data addressed. Complaints should be addressed to Mr. Jose Santiago, 480 Clay Pitts Road, East Northport, NY 11731, 631-912-2030, or [jsantiago@commack.k12.ny.us](mailto:jsantiago@commack.k12.ny.us).

This Bill of Rights will be included with every contract entered into by the District with an outside contractor if the contractor will receive student data or teacher or principal data. This Bill of Rights will be supplemented to include information about each contract that the District enters into with an outside contractor receiving confidential student data or teacher or principal data, including the exclusive purpose(s) for which the data will be used, how the contractor will ensure confidentiality and data protection and security requirements, the date of expiration of the contract and what happens to the data upon the expiration of the contract, if and how the accuracy of the data collected can be challenged, where the data will be stored and the security protections that will be taken.

“District Data” means all information obtained by the Service Provider from the District or by the Service Provider in connection with the services provided by Service Provider pursuant to the Agreement, including but not limited to business, administrative and financial data, intellectual property, student and personnel data, and metadata. The term, “District Data” does not include any information made publically available by the District, with the exception of Personally Identifiable Information from student and personnel data.

- (1) **Use of District Data by Service Provider.** The District Data received by the Service Provider will be used only to perform Service Provider's obligations pursuant to the Agreement and for no other purpose.

(2) **Storage and Security Protections.** The Service Provider will store and process District Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure District Data from unauthorized access, disclosure, alteration and use. The Service Provider will use industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services pursuant to the Agreement. Service Provider will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

The following paragraphs describe (in such a manner as to protect data security) the specific storage methods and security protections used by the Service Provider to protect District Data:

(a) Storage of Electronic Data: See comment on page 8  
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\_\_\_\_\_

(b) Storage of Non-Electronic Data: See comment on page 8  
\_\_\_\_\_  
\_\_\_\_\_

(c) Personnel/Workforce Security Measures: See comment on page 8  
\_\_\_\_\_  
\_\_\_\_\_

(d) Physical Security Measures: See comment on page 8  
\_\_\_\_\_  
\_\_\_\_\_

(e) Account Management and Access Control: See comment on page 8  
\_\_\_\_\_  
\_\_\_\_\_

(f) All electronic District Data will be protected by the Service Provider through the use of encryption technology in compliance with New York Education Law § 2-d(5)(f)(5).

(3) **Sharing Information with Other Persons and Entities.** The Service Provider will only share District Data with entities or persons authorized by the Agreement. To the extent that District Data will be shared by the Service Provider with other authorized entities or persons not employed by Service Provider, the Service Provider will ensure that those persons or entities will be required to agree in writing that it/they will comply with all terms of the Agreement's Plan for Security and Protection of Personally Identifiable Information, and any other Agreement provision relating to confidentiality of records and data security and privacy, including, but not limited to this Exhibit A.

(4) **District Data Transfer**: Upon the termination of this Agreement, for any reason, the Service Provider will be directed by the District to transfer all data (including, but not limited to, student and teacher data, and any other data) that resides on or provided for (e.g., hard copy or electronic) to the District, in a format acceptable to the District (e.g., binary format) or in a format acceptable to the District (e.g., hard copy or electronic). The Service Provider will be responsible for the costs of the return of all District Data transferred by the Service Provider to the District, and the District will be responsible for the costs of the return of all District Data transferred by the Service Provider to the District, in accordance with the applicable laws, including, but not limited to, California's Assembly Bill 1722, the California Privacy Protection and Disclosure Schedule 2017, in connection with the secure destruction of any District Data transferred by the Service Provider to the District, and the District will be responsible for the costs of the destruction of any District Data transferred by the Service Provider to the District, in accordance with the applicable laws, including, but not limited to, California's Assembly Bill 1722, the California Privacy Protection and Disclosure Schedule 2017, in connection with the secure destruction of any District Data transferred by the Service Provider to the District.