

## **OHIO S.B. 29 AND FERPA COMPLIANCE ADDENDUM**

This Ohio S.B. 29 and FERPA Compliance Addendum (“Addendum”) is hereby entered into by and between District, as identified in the signature block of this Addendum, and Technology Provider, as identified in the signature block of this Addendum (collectively “Parties”). This Addendum is effective upon the date of full execution by both Parties (“Effective Date”). In consideration of the mutual promises and obligations contained herein, the Parties agree by and between themselves as follows:

### **I. DEFINITIONS.**

- A. “Technology Provider” shall have the same meaning as set forth in Ohio Revised Code Section 3319.325.
- B. “FERPA” shall mean the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g and its implementing regulations set forth in Part 99 of Title 34 of the Code of Federal Regulations and its Ohio equivalent set forth in Ohio Revised Code Section 3319.321.
- C. “Education Records” shall include all records defined as “education records” under FERPA and all records defined as “educational records” under Ohio Revised Code Section 3319.325. Where a conflict exists between the two definitions, the outcome whereby more records are included in the definition shall prevail.

### **II. PURPOSE AND INTENT.**

- A. The Parties intend for this Addendum to be mutually executed and attached to a primary agreement between the Parties wherein Provider is contractually agreeing to provide services and will thereby have some level of access to Education Records.
- B. In the event that the terms in this Addendum conflict with any terms set forth in the primary agreement to which this Addendum is appended or with any of its subsidiary documents, including but not limited to orders, addendums, exhibits, appendices, privacy policies, terms of service, user agreements, quotes, and RFPs, then the Parties agree that the provisions in this Addendum shall prevail. Additionally, the Parties agree that this Addendum shall supersede any and all other discussions, agreements and understandings, either oral or written, between the Parties with respect to the subject matter herein.

### **III. DATA PROTECTION.**

- A. Technology Provider agrees to comply with all applicable provisions of Ohio and federal laws, including but not limited to FERPA and Ohio Revised Code Sections

3319.321 through 3319.327. No aspect of this Addendum or any other agreement between the Parties shall be construed to allow Technology Provider to maintain, use, disclose, or share Education Records in a manner not permitted by either state or federal laws and regulations.

- B. The Parties agree that, to the extent an agreement between the Parties permits Technology Provider to access Education Records, Technology Provider is acting as a “school official” and has a “legitimate education interest” in the Education Records, as such terms are used in FERPA. Technology Provider further agrees:
- i. All Education Records shall remain the sole property of the District;
  - ii. Technology Provider shall not use Education Records for any commercial purpose other than fulfillment of services set forth in an agreement between the Parties;
  - iii. No Education Record shall be disclosed to third parties except as permitted by FERPA and as specifically contemplated in an agreement between the Parties;
  - iv. Technology Provider’s employees and contractors may only be authorized to access Education Records to the extent necessary to fulfill the official duties of the employee or contractor as necessary for Technology Provider to fulfill its contractual obligations to District;
  - v. Education Records will only be accessed, used, disseminated, or otherwise manipulated to the extent necessary to fulfill Technology Provider’s contractual obligations to District;
  - vi. Technology Provider will safeguard all Education Records utilizing commercially reasonable administrative, physical, and technological standards, including but not limited to internal policies that restrict unauthorized access to Education Records by Technology Provider’s employees and contractors;
  - vii. Pursuant to Ohio Revised Code Section 3319.326, Technology Provider is required to comply with Chapter 1347 of the Ohio Revised Code with regard to the collection, use, and protection of data as if it were a school district;
  - viii. If Education Records maintained by Technology Provider are subject to a breach of security, as described in Ohio Revised Code Section 1347.12, then Technology Provider shall fulfill the requirements set forth in that Ohio Revised Code Section; and
  - ix. Unless renewal of the primary agreement is reasonably anticipated, Technology Provider shall destroy or return to the District all Education Records created, received, or maintained within ninety (90) days of the expiration of the primary agreement;
- C. None of the foregoing prohibitions shall prevent Technology Provider from using aggregate data, devoid of any personally identifiable information, for improving, maintaining, developing, supporting, or diagnosing Technology Provider’s site, services, or operations.

D. Technology Provider understands and agrees that this Addendum and all underlying agreements are subject to Ohio's Public Records Act and may be inspected pursuant to any valid request.

IV. This Addendum is hereby appended to and incorporated into the following primary agreement(s) between the Parties:

_____ Name of Agreement	_____ Date of Execution
_____ Name of Agreement	_____ Date of Execution
_____ Name of Agreement	_____ Date of Execution
_____ Name of Agreement	_____ Date of Execution

This Addendum is acknowledged and agreed to by:

_____ District	_____ Technology Provider
_____ Signature	_____ Signature
_____ Name, Title	_____ Name, Title
_____ Date	_____ Date