

MLC



Frank Edelblut
Commissioner

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Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
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March 22, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the New Hampshire Department of Education (NHED) to enter into a **sole source** contract with the College Guidance Network, Inc., (VC#438492), Lexington, MA, in the amount of \$1,200,000 to provide college and career guidance digital content and hosted webservices for NH schools and families, effective upon Governor and Council approval through September 30, 2024. 100% Federal Funds.

Funds to support this request are available in FY23 in the account titled ESSER II- CRRSA Act 2021 and are anticipated to be available in FY24 in ESSER II- CRRSA Act 2021 and in FY24 and FY25 in ESSER III- ARP Act, upon the availability and continued appropriation of funds in the future operating budgets with the authority to adjust encumbrances between fiscal years and accounting units within the price limitation through the Budget Office, without further Governor and Council approval, if needed and justified.

	FY23	FY24	FY25	Total
06-56-56-562010-19580000-102-500731 Contracts for Program Services	\$500,000	\$50,000	-	\$550,000
06-56-56-562010-24370000-102-500731 Contracts for Program Services	-	\$500,000	\$150,000	\$650,000
Total	\$500,000	\$550,000	\$150,000	\$1,200,000

EXPLANATION

This **sole source** contract is being requested in order to provide timely supports to NH families and school counselors through a partnership with a New England based company with deep and unique experience in this area. The underlying objective of the platform is the democratization of the college entrance process. The goal is to facilitate access to all New Hampshire families to structured resources to allow them to successfully navigate the college entrance process. As a validation of this need, the department met with the New Hampshire

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
Page 2 of 2

School Counselors Association, which was able to validate both the efficacy of the platform as well as the need.

The Covid-19 pandemic exacerbated capacity issues facing NH school counselors in addition to increasing challenges among families to financially support and navigate the college and career readiness pathway. This resource will help to alleviate these burdens and increase positive outcomes for students now, as well as in the future. The New Hampshire Department of Education (NHED) requests a **sole source** with the College Guidance Network, Inc. (CGN), to provide college and career guidance services to all NH schools, school personnel, students and families through its digital platform, through September 30, 2024.

CGN will provide a digital platform and web-based services, in addition to providing onboarding sessions for all school counseling teams, to ensure successful implementation and student/family engagement and access to the tools and resources for navigating the college admissions and career readiness process. CGN specializes in supporting school counseling departments to provide individualized college consulting and guidance services to students and families. The college admissions process is complex and CGN helps families to navigate the college admissions process to make good, financially responsible decisions, and to access unbiased information to achieve the best possible outcomes and greatest long-term success.

As part of this contract, CGN will develop New Hampshire specific content that is focused on New Hampshire post-secondary institutions, including the USNH and CCSNH systems. Such content will be owned by the department and can be shared with NHEAF, in furtherance of its mission. The department engaged NHEAF as part of determining the terms of the contract.

CGN is comprised of dedicated experts, educators and more importantly, parents, that have experienced the challenges of the college admissions process and are working to ensure accessibility to all families and students. The CGN team is supported by admissions leaders, financial aid professionals, counselors, professors and more, to provide timely and practical webinars and live events for families, students, and school personnel.

NH educators, school counselors and administrators have expressed a great need for this type of support. These services provide updated, relevant information on accessing college and career opportunities, that counselors can access immediately and provide to families with ease and efficiency. Parents and students can access the supports directly, increasing access to valuable resources. This contract will allow the NHED to reach more counselors, in more schools, and more families, which will have a greater impact on improving student outcomes.

Respectfully submitted,



Frank Edelblut
Commissioner of Education

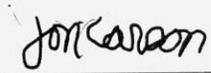
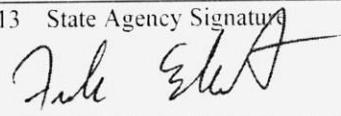
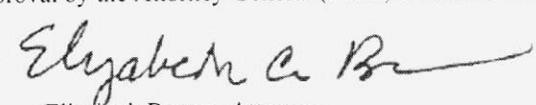
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Department of Education		1.2 State Agency Address 25 Hall Street, Concord, NH 03301	
1.3 Contractor Name College Guidance Network, Inc.		1.4 Contractor Address 37 Saddle Club Road Lexington, MA 02420	
1.5 Contractor Phone Number 609-658-5765	1.6 Account Number See Exhibit C	1.7 Completion Date September 30, 2024	1.8 Price Limitation \$1,200,000
1.9 Contracting Officer for State Agency Melissa White		1.10 State Agency Telephone Number 603-271-3855	
1.11 Contractor Signature  Date: 3.20.23		1.12 Name and Title of Contractor Signatory Jon Carson, CEO	
1.13 State Agency Signature  Date: 3/27/2023		1.14 Name and Title of State Agency Signatory Frank Edelblut, Commissioner of Education	
1.15 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i> By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i> By:  On: 3/27/2023 Elizabeth Brown, Attorney			
1.17 Approval by the Governor and Executive Council <i>(if applicable)</i> G&C Item number: _____ G&C Meeting Date: _____			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete

compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder (“Event of Default”):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State’s discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report (“Termination Report”) describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State’s discretion, the Contractor shall, within 15 days of notice of early termination, develop and

submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 As used in this Agreement, the word “data” shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

11. CONTRACTOR’S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers’ compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. “Change of Control” means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor Initials JC
Date 3.20.23

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A (*Workers' Compensation*).

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

17. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

EXHIBIT A
Special Provisions

This Agreement is contingent upon Governor and Council approving an amendment to the existing contract between the New Hampshire Department of Education, Bureau of Career Development's contract with Awato, LLC (VC#312756) to reduce the amount of federal funding (ESSER III – ARP 2021 funds) encumbered under the terms of the Awato, LLC agreement. The original Agreement with Awato was approved by Governor and Council on December 21, 2021 (item #99) and amended on September 21, 2022 (Item #107) and amended on December 21, 2022 (Item 5H).

Additional Exhibits D-G

Federal Certification 2 CFR 200.415

Required certifications include: (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

Requests for Changes to General P37 Provisions by Vendor

Section 12.1 shall be stricken in its entirety and the following language shall be substituted as section 12.1.

12.1 The Contractor may assign this Agreement provided that the Contractor provide written notice to the State at least fifteen (15) days prior to the assignment.

EXHIBIT B

Scope of Services

1. CGN Digital Content

- 1.1. College Guidance Network (CGN) provides digital content and hosted webservices (CGN Content) for schools, school personnel (e.g., teachers, school counselors, administrators) as well as parents, grandparents, and guardians and students.
- 1.2. Pursuant to the terms of this agreement, The New Hampshire Department of Education (NHED) is acquiring a statewide subscription license to CGN Content for participants (referred to herein as the "Statewide License.").
- 1.3. CGN shall provide NHED access to an administrative account permitting NHED to run reports reflecting Participating School and End User platform usage and manage the CGN Content that is available to Participating Schools and End User (defined herein). Such available content along with the services provided pursuant to the terms of this agreement shall be referred to herein as the "NHED CGN Services."
- 1.4. Eligible participants include New Hampshire traditional public, chartered public and non-public schools, including individuals employed by an eligible New Hampshire school (Eligible Schools); and parents, grandparents, guardians and students eligible to attend or attending a New Hampshire school, including Education Freedom Account and Home Education program students (End Users).
- 1.5. Each Eligible School that desires to access CGN services shall enter into a School Licensing Agreement ("School Licensing Agreement"), in the form attached hereto as Appendix 1, with CGN that will govern the use of the CGN Content. Such school that has executed a School Licensing Agreement shall be referred to herein as a "Participating School". Individual users shall enter into an End User Access Agreement (End User License Agreement), in the form attached hereto as Appendix 2, with CGN that will govern the use of the CGN Content. Such individuals shall be referred to herein as an "End User".
- 1.6. CGN grants by Access Agreement to Participating School access to an administrative account where Participating School may run reports relative to access to and use of CGN Content by Participating School. The grant for access to the CGN Content is non-transferable and the login credentials are confidential and shall not be disclosed to any third party.
- 1.7. Any schools or school districts who are CGN customers as of the effective date of this Agreement and who become Participating Schools under this Agreement shall, upon the expiration or termination of this Agreement, receive the benefit of any time period remaining on their current CGN contract. By way of example, if a current CGN customer school has six months remaining on its CGN contract when it enrolls in NHED's CGN Services, upon the expiration or termination of this Agreement, CGN shall continue to provide CGN Content to such school for six months.
- 1.8. NHED CGN Services shall include and CGN agrees to provide the following content and services pursuant under this agreement which together shall constitute the NHED CGN Services:
 - 1.8.1. Provide a minimum of six in-person CGN community presentations, in the Northern (above the notch) Central and Southern areas of the state, to meet with school counselors and administrators to demonstrate CGN.
 - 1.8.2. Create and distribute to school counselors for distribution to families a CGN Fact Sheet
 - 1.8.3. Schedule weekly CGN webinars for all End Users.
 - 1.8.4. Create a unique CGN New Hampshire website.
 - 1.8.5. A personalized experience with student, parent, and counselor dashboards, curated playlists organized by grade level, and a searchable database of on-demand videos, toolkits, and podcasts.

- 1.8.6. Resources for students and their parents including “Starter Packs,” a database of FAQs, and a library of terms with definitions.
 - 1.8.7. Digital content can be translated. Video content is close-captioned in 8 languages: Spanish, Portuguese, French, Hindi, Mandarin, Korean, Arabic and Vietnamese.
 - 1.8.8. Live, interactive programming which includes both a college and career expert speaker series and college advising seminars for Juniors and Seniors.
 - 1.8.9. Special interest content to meet the needs of a variety of students on topics including: athletic recruiting, performing arts admission; and learning support services.
 - 1.8.10. AI Chat-bot for providing access to CGN library content on whatever college and career-related questions they may have.
 - 1.8.11. In partnership with National Association of College Admissions Counselors, special events and resources to support counselors and provide professional development opportunities regarding college and career planning. Counselors who attend receive a certificate for continuing education credit hours.
 - 1.8.12. Full-time CGN School Relations Manager to help train counselors and help onboard students and families to ensure engagement. Monthly activation and engagement reports demonstrating student participation and engagement with the CGN content can be accessed by counselors and administrators.
- 1.9. CGN shall provide Participating Schools and End Users technical support services by email and phone in the English language, including reasonable efforts to assist Participating School and End User. CGN shall provide such support by email and phone during its normal business hours of Monday - Friday 8:30 AM to 5:30 PM United States Eastern Time.
- 1.10. As a condition of this Agreement, CGN shall enter into a data privacy agreement similar to the form attached hereto as Appendix 3. Participating Schools will be required to participate in this data privacy agreement.
- 1.11. For any CGN employee or contractor who has real-time interaction with NH students, district employees, or enters a NH school building at any time while performing services under this agreement, CGN shall perform, at CGN’s sole expense, a criminal background screening. The background screening shall be performed no less frequently than twice per year.
- 1.11.1. Such background check shall include screening of at least the following information:
 - 1.11.1.1. County criminal record search (for all locations the applicant has resided for the last seven years);
 - 1.11.1.2. National criminal record search;
 - 1.11.1.3. Sex offender search;
 - 1.11.1.4. SSN trace;
 - 1.11.1.5. Global Watchlist search.
 - 1.11.2. CGN shall not assign any CGN employee or contractor to provide services under the terms of this agreement who has a history of violent or sexual offenses nor any criminal conduct that would cause the individual to be ineligible for licensure pursuant to RSA 189:13-c, V.

2. Content Development

- 2.1. CGN shall develop New Hampshire specific content that addresses post-secondary opportunities in New Hampshire institutions of higher education, including but not limited to the University System of New Hampshire, the Community College System of New Hampshire, and nonpublic institutions of Higher Education.
- 2.2. The development of such content shall be done in collaboration with the relevant New Hampshire institutions, to include the institutions of higher education and New Hampshire Higher Education Assistance Foundation, and with respect to career opportunities, with New Hampshire Business and Economic Affairs. Content shall be subject to approval and acceptance by NHED.

- 2.3. All New Hampshire specific content developed pursuant to the terms of this agreement shall comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements." NHED shall have an exclusive unrestricted license to all content developed pursuant to the terms of this Agreement.
- 2.4. Such content development shall include over the period of this contract:
 - 2.4.1. An exclusive New Hampshire Channel on the CGN platform that aggregates New Hampshire specific content, including live and on-demand programming;
 - 2.4.2. Live New Hampshire college events designed for families that focus exclusively on institutions of higher education in the state of New Hampshire and include content such as admissions policies and processes, scholarship opportunities and academic pathways, and degree programs;
 - 2.4.2.1. One event for each of the institutions that are part of the University System of New Hampshire, including University of New Hampshire (UNH), Plymouth State University and Keene State College;
 - 2.4.2.2. One event each featuring UNH Manchester/Granite State College, the UNH Franklin Pierce Law School, and the Community College system of New Hampshire; and
 - 2.4.2.3. At least one event featuring nonpublic institutions of Higher Education in the state of New Hampshire.
 - 2.4.3. Live New Hampshire college events designed for school counselors that exclusively feature institutions of higher education in the state of New Hampshire and include content such as admissions policies and processes, scholarship opportunities and academic pathways and degree programs.
 - 2.4.3.1. At least three, or more events at the discretion of CGN, featuring:
 - 2.4.3.1.1. University System of New Hampshire institutions;
 - 2.4.3.1.2. Community College System of New Hampshire Institutions;
 - 2.4.3.1.3. Nonpublic institutions of Higher Education.
 - 2.4.4. Live Quarterly New Hampshire career counseling events for families and school counselors that will focus on high demand occupations in New Hampshire, regional employment strengths and opportunities, trade school opportunities, military careers, credentialing opportunities, relevant wage and education requirements and other relevant aspects of the employment. There shall be a minimum of 4 such events each year of this contract.
 - 2.4.5. College Application hotline to support families and school counselors with timely response to last minute college application questions answered live by experts.
- 2.5. Twice per year reporting about platform usage and state of post-secondary engagement processes, to include feedback from:
 - 2.5.1. Family, student, and school counselor focus groups; and
 - 2.5.2. Parent, student (with opt in), and school counselor surveys to measure satisfaction with the content, platform and mode of delivery of content, and to identify new topics of interest.
- 2.6. CGN shall support the New Hampshire channel with a channel production team to include an event producer, editor, host, etc., as needed.

EXHIBIT C
Method of Payment

1. Price

For the 2023 – 2024 school year, NHED agrees to pay to CGN an amount enumerated below for Eligible Schools and participating End Users. For 2024 – 2025, NHED agrees to pay to CGN an amount enumerated below for *activated* Participating Schools and *activated* End Users. Activated shall mean regular and frequent engagement in the platform as determined in the sole discretion of NHED.

- 1.1. For the 2023-2024 school year, NHED agrees to pay CGN an annual license fee equal to:
 - 1.1.1. Five Dollars (\$5.00) per student for any Eligible School with 400 or more enrolled students as reported by NHED in its beginning of the year enrollment for the 22-23 school year;
 - 1.1.2. Twenty-Five Hundred Dollars (\$2,500) for any Eligible School with 400 or fewer students as reported by NHED in its beginning of the year enrollment for the 22-23 school year;
 - 1.1.3. A one-time category set up fee to permit End User Registration in the amount of Five Hundred Dollars (\$500.00).
 - 1.1.4. Five Dollars (\$5.00) per student for any completed End User registrations.
- 1.2. For the 2024 - 2025 school, NHED agrees to pay CGN an annual license fee equal to the number of enrolled Participating Schools or activated End User accounts during the 2023-2024 school year as follows:
 - 1.2.1. Five Dollars (\$5.00) per student for any Participating School with 400 or more enrolled students as reported by NHED in its beginning of the year enrollment for the 23-24 school year,
 - 1.2.2. Twenty-Five Hundred Dollars (\$2,500) for any Participating School with 400 of fewer students as reported by NHED in its beginning of year enrollment for the 23-24 school year, and
 - 1.2.3. A one-time category set up fee to permit End User Registration in the amount of Five Hundred Dollars (\$500.00).
 - 1.2.4. Five Dollars (\$5.00) per student for any activated End User registration.
- 1.3. Invoicing for the 2024 – 2025 school year school year shall be submitted to NHED no later than September 30, 2024.

CGN shall invoice NHED monthly for approved and accepted Content Development. The price for Content Development shall not exceed \$300,000.

2. Term

- 2.1. This contract will commence upon Governor and Council approval and extend through September 2024.

3. Limitation on Price:

- 3.1. Upon mutual agreement between the New Hampshire Department of Education and CGN, line items in this budget may be adjusted one to another, but in no case shall the total budget exceed the price limitation of \$1,200,000.

4. Funding Source:

- 4.1. Funds to support this request are available in FY 23 and anticipated to be available in FY 24 and FY 25 in the accounts titled ESSER II – CRRSA Act 2021 and ESSER III – ARP 2021 upon the availability and continued appropriation of funds in the future operating budget with the ability to adjust encumbrances amongst fiscal years within the price limitation through the Budget Office without further Governor and Council approval if needed and justified.

Fee Schedule

	FY 23	FY 24	FY 25	Total
06-56-56-562010-19580000-102-500731 Contracts for Program Services	\$500,000	\$50,000	\$0	\$550,000
06-56-56-562010-24370000-102-500731 Contracts for Program Services	\$0	\$500,000	\$150,000	\$650,000
Total	\$500,000	\$550,000	\$150,000	\$1,200,000

5. Method of Payment:

- 5.1. All payments are due to CGN within thirty (30) days of receipt of invoice.
- 5.2. In the event of a breach of any of its obligations, including but not limited to non-payment or late payment for services, NHED shall remedy the breach within thirty (30) days upon receipt of written notice from CGN. If NHED fails to remedy such a breach within the period of thirty (30) days, CGN may, in its sole discretion, terminate the Agreement with NHED and any Access Agreements accessing the CGN Content upon written notice to NHED and/or temporarily or permanently suspend access to the CGN Content.
- 5.3. Invoices and reports shall be submitted electronically to:

Whitney Vaillancourt
Administrator, Covid-19 Education Programs
Whitney.Ca.Vaillancourt@doe.nh.gov

EXHIBIT D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Revised 6-25-21

Contractor Initials JC
Date 3.20.23

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
 2. Does not have a proposed debarment pending;
 3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Exhibit F

Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions

<https://www.gsa.gov/forms-library/disclosure-lobbying-activities>

- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Revised 6-25-21

Contractor Initials JC
Date 3.20.23

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Revised 6-25-21

Contractor Initials JC
Date 3.20.23

(Appendix 1)

**COLLEGE GUIDANCE NETWORK
SCHOOL LICENSING AGREEMENT**

College Guidance Network Inc., ("College Guidance Network") provides the College Guidance Network (the "Platform") and related services (collectively with the Platform, the "Services"), subject to these terms of service (the "Terms") and the terms and conditions contained in the agreement for services between the New Hampshire Department of Education and the College Guidance Network (collectively the "Agreement").

Your use of the Services constitutes Agreement to be bound by these Terms. If you are accepting on behalf of your employer or another entity, you represent and warrant that: (a) you have full legal authority to bind your employer or the applicable entity to these terms; (b) you have read and understand this Agreement; and (c) you agree on behalf of the party you represent to this Agreement.

1. Services

- a. Service Level. College Guidance Network will use commercially reasonable efforts to provide the Services to a school, school district, and/or community-based organization (the "Member Institution") in accordance with this Agreement.
- b. New Features. College Guidance Network may make new features or functionality for the Services available from time to time, the use of which may be contingent upon agreement to additional terms by Member Institution and/or its end users ("Users").
- c. Technical Support. Subject to the terms hereof, College Guidance Network will provide the Member Institution with reasonable technical support services in accordance with College Guidance Network's standard practices and the terms of the agreement for services between the New Hampshire Department of Education and the College Guidance Network.

2. Member Institution Responsibilities

- a. Contacts. As part of the registration process, each Member Institution will identify a primary contact, technical contact, and billing contact for the Member Institution's account.
- b. Compliance. Member Institution will (a) ensure that Member Institution and its Users' use of the Services, including all access to and use of data submitted, stored, sent, or received via the Services by Member Institution or its Users ("Institution Data") by it and its Users, complies with this Agreement and with any of its applicable contract terms or policies, including any employment contracts or employer's policies regarding technology usage, security, or confidentiality; (b) use commercially reasonable efforts to prevent unauthorized access or use of the Services; and (c) promptly notify College Guidance Network of any unauthorized use of, or access to, the Services of which Member Institution becomes aware.
- c. Acceptable Use. Member Institution represents, covenants, and warrants that Member Institution will use the Services only in compliance with this Agreement, College Guidance Network policies, and all applicable laws and regulations and that its Users will use the Services only in compliance with the Acceptable Use Policy for College Guidance Network Products.

- d. Restrictions. Neither the Member Institution nor its Users will, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services, the Platform, its documentation or its data; modify, translate, or create derivative works based on the Services (except to the extent expressly permitted by College Guidance Network); use the Services for the benefit of a third party other than the Member Institution's Users; access the Services in a manner that breaches, or facilitates the breach of, any applicable export and re-export control laws and regulations, including (a) the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, (b) trade and economic sanctions maintained by the U.S. Treasury Department's Office of Foreign Assets Control, and (c) the International Traffic in Arms Regulations ("ITAR") maintained by the U.S. Department of State; or remove any proprietary notices or labels.
 - e. Account Security. Member Institution shall be responsible for maintaining the security of Member Institution's account and related User accounts and passwords and files, and for all uses of Member Institution account with or without Member Institution's knowledge or consent.
3. Data Privacy
- a. Applicable Law. College Guidance Network and Member Institution each represents, warrants, and covenants that it complies with, and will comply with, all applicable federal, state, and international data-protection and privacy laws and regulations with respect to the personally identifiable information collected, stored, and maintained through the Platform, as well as with all applicable business regulations.
 - b. Privacy. College Guidance Network is committed to protecting the privacy of personally identifiable information provided by Member Institution and its Users and maintains a detailed Privacy Policy for College Guidance Network Products.
 - c. Family Educational Rights and Privacy Act (FERPA). In the event Member Institution is subject to the Family Educational Rights and Privacy Act (FERPA), the parties agree that Member Institution shall appoint College Guidance Network as a "school official" as that term is used in FERPA §§ 99.31(a)(1) and as interpreted by the Family Policy Compliance Office and determines that College Guidance Network has a "legitimate educational interest," for the purpose of carrying out its responsibilities under the Agreement. College Guidance Network acknowledges that it shall be bound by all relevant provisions of FERPA and agrees that personally identifiable student information as defined in FERPA and obtained from Member Institution and its Users by College Guidance Network in the performance of this Agreement: (a) will remain under the "direct control" of the Member Institution; (b) will be used only to fulfill College Guidance Network's responsibilities under the Agreement; (c) will only be disclosed to third parties operating in partnership with College Guidance Network as necessary to provide Services to Member Institution, provided that all such third parties are contractually bound to manage the information in compliance with the College Guidance Network Privacy Policy and security policies and to use the information for the sole and limited purpose of providing the Services to the Member Institution; and (d) will not be disclosed to other third parties except as expressly provided for in FERPA §§99.31, without signed and dated written consent of the student's parent/legal guardian, or if

the student is eighteen (18) years of age or older, signed and written consent of the student.

- d. Children's Online Privacy Protection Act (COPPA). Without limiting the generality of Section 7 of the Agreement, in the event that Member Institution allows Users under the age of 13 to submit personal information as defined in COPPA to College Guidance Network in connection with its use of the Platform, Customer agrees that it will be responsible for obtaining verifiable parental consent prior to making the Platform available to such Users. College Guidance Network shall fully comply with COPPA and any rules or regulations promulgated thereunder.
 - e. Security. College Guidance Network implements, maintains, and updates, as appropriate, reasonable security policies, procedures, and practices as dictated by the nature of the personally identifiable information collected and maintained through the Platform, in order to protect such information from unauthorized access, destruction, use, modification, or disclosure. The Platform has security measures in place to help protect against the loss, misuse, and alteration of Member Institution and User personally identifiable information. The Internet, however, is not perfectly secure and College Guidance Network shall not be responsible for security incidents not reasonably within its control.
4. Confidentiality and Proprietary Rights
- a. Obligations. The recipient will use the other party's Confidential Information only to exercise rights and fulfill obligations under this Agreement. The recipient will use reasonable care to protect against disclosure of information from the other party that is marked as confidential or would normally be considered confidential information under the circumstances ("Confidential Information") to other parties other than the recipient's employees, affiliates, agents, or professional advisors ("Delegates") who need to know it and who have a legal obligation to keep it confidential. The recipient will ensure that its Delegates are also subject to the same non-disclosure and use obligations.
 - b. Disclosure. Regardless of any other provision in the Agreement, the recipient or its affiliates may disclose the other party's Confidential Information (a) in accordance with a Legal Process (where "Legal Process" means a requirement or order under applicable law) or (b) with the other party's written consent. The recipient will use commercially reasonable efforts to notify the other party before disclosing that party's Confidential Information in accordance with Legal Process. Notice is not required before disclosure if the recipient is informed that (a) it is legally prohibited from giving notice or (b) the Legal Process relates to exceptional circumstances involving danger of death or serious physical injury. The recipient and its affiliates will comply with the other party's reasonable requests to oppose disclosure of its Confidential Information.
 - c. Ownership. Member Institution shall own all right, title and interest in and to the institution data. College Guidance Network shall own and retain all right, title and interest in and to (a) the Services and Platform, all improvements, enhancements or modifications thereto, (b) any Platform, applications, inventions or other technology developed in connection with Implementation Services or support, and (c) all intellectual property rights related to any of the foregoing.

5. **Warranty and Disclaimer.** College Guidance Network shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform all Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by College Guidance Network or by third-party providers, or because of other causes beyond College Guidance Network's reasonable control, but College Guidance Network shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. However, College Guidance Network does not warrant that the Services will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from use of the Services. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND COLLEGE GUIDANCE NETWORK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.
6. **Indemnification**
- a. **Indemnification of College Guidance Network.** Member Institution shall indemnify, defend, and hold College Guidance Network, its licensors, and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys, and agents harmless from and against any and all claims, costs, damages, losses, liabilities, and expenses (including attorney's fees and costs) arising out of or in connection with: (a) a claim alleging that use of Institution Data infringes the rights of, or has caused harm to, a third party, or violates applicable law; or (b) a claim arising from or alleging a breach by a Member Institution or User(s) of any provision of the Agreement, provided that College Guidance Network: (i) gives written notice of the claim to Member Institution as soon as practicable; (ii) gives Member Institution sole control of the defense and settlement of the claim (provided that Member Institution may not settle or defend any claim unless it unconditionally releases College Guidance Network and its subsidiaries, affiliates, officers, directors, employees, attorneys, and agents of all liability and such settlement does not affect College Guidance Network's business or the Services); (iii) provides to Member Institution all reasonably available information and assistance; and (iv) has not compromised or settled such claim without Member Institution's prior written consent.
7. **Indemnification of Member Institution.** College Guidance Network shall indemnify, defend, and hold Member Institution and its parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys, and agents harmless from and against any and all claims, costs, damages, losses, liabilities, and expenses (including attorney's fees and costs) arising out of or in connection with a claim alleging that the Services directly infringe the copyright, patent, trademark, and other intellectual and proprietary rights of a third party
8. **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, COLLEGE GUIDANCE NETWORK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR

TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND COLLEGE GUIDANCE NETWORK'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY MEMBER INSTITUTION TO COLLEGE GUIDANCE NETWORK FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT COLLEGE GUIDANCE NETWORK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. Miscellaneous

- a. Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.
- b. Assignment. This Agreement is not assignable, transferable or sublicensable by Member Institution except with College Guidance Network's prior written consent. College Guidance Network may transfer and assign any of its rights and obligations under this Agreement without consent.
- c. No Agency. No agency, partnership, joint venture, or employment is created as a result of this Agreement and College Guidance Network does not have any authority of any kind to bind College Guidance Network in any respect whatsoever.
- d. Notices. College Guidance Network may provide any notice to Member Institution by sending an email the address provided for the Member Institution's primary contact. Customer may provide notice to College Guidance Network by sending an email to info@CollegeGuidanceNetwork.com. Notice will be treated as received when the email is sent, whether or not the other party has received the email. Member Institution is responsible for keeping its primary contact's email address current throughout the Term.
- e. Survival. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.
- f. This Agreement and any dispute arising hereunder shall be governed by the laws of the Commonwealth of Massachusetts, without regard to its conflict of laws provisions, and shall be subject to the exclusive jurisdiction of the federal and state courts located in the State of New Hampshire.
- g. If there is a conflict between the documents that make up this Agreement, the documents will control in the following order: the agreement for services between the New Hampshire Department of Education and the College Guidance Network and then these Terms. Any terms contained in or references in a purchase order or other document issued by Member Institution shall be invalid, non-binding and of no effect.

SIGNATURE PAGE

School _____

College Guidance Network

Name

Name

Title

Title

Signature

Signature

(Appendix 2)

COLLEGE GUIDANCE NETWORK, INC.

TERMS OF USE

By using our websites, products and services, you agree to the following terms and conditions.

Welcome! We are excited that you are taking advantage of one of the products provided by College Guidance Network. ("CGN"). By using any of these products (each of which is hereinafter referred to as a "Product") or CGN's services (hereinafter referred to as the "Service"), you agree to be bound by the following terms and conditions (the "Terms of Use" or "TOU"). In addition, you agree that CGN is providing you with restricted access to the Product and the Service and related data, which CGN updates on a periodic basis (hereinafter referred to as the "Data").

ACCEPTANCE OF TERMS

CGN provides the Product and the Service to you subject to the following TOU. If you do not agree to these TOU, please do not use the Product or Service. It is your responsibility to regularly review these TOU. They may be updated from time to time without notice to you, and those updates become effective when posted. If you continue to use the Product or Service after we have posted changes to these TOU, it means you have accepted those terms. If you have questions and would like to contact us with regard to this, please email us at admin@collegguidancenetwork.com.

YOUR REGISTRATION OBLIGATIONS

In consideration of your use of the Product or Service, you agree to: (a) provide by the data requested via the registration setup and authentication form and (b) maintain and promptly update your account data to keep it true, accurate, current and complete.

ELIGIBLE PARTIES

You may use the Product and Service only if you are a student; a student's parent, guardian or grandparent; a teacher; a counselor; a school administrator or another person specifically approved by CGN or included as an eligible end user pursuant to the terms of the agreement between CGN and the New Hampshire Department of Education. All Product and Service users must be associated with a CGN-recognized and/or subscribing institution or government agency. If you are not one of the foregoing, you may not use the Product or Service and your access will be terminated.

CGN PRIVACY POLICY

CGN is very concerned about the safety and privacy of all its users. Your account information and other information we collect about you are subject to our Privacy Policy. For more information, please review our Privacy Policy in its entirety.

SITE USAGE INFORMATION

CGN only collects individual usage information or aggregated usage information, such as the frequency of pages viewed and functions used. Knowing how the Product and Service are used is very valuable for understanding how to enhance them to be more valuable for all of our users.

REGISTERED ACCOUNT, PASSWORD AND SECURITY

You will enter your first name and last name and establish a username and password when you set up your Product account. You are responsible for maintaining the confidentiality of your password and are fully responsible for all activities that occur under your username and password. If you feel your password is no longer secure, you should change it immediately. CGN cannot and will not be liable for any loss or damage arising from the unauthorized use of your password. For more information, please review our Privacy Policy.

LIMITATIONS ON USER ACCOUNTS

Usage of the Product and Service is strictly limited to individuals at CGN-recognized and/or subscribing institutions. Subscribing users are prohibited from publishing or in any way communicating their authentication credentials (including usernames and passwords) to non-subscribing individuals. Posting of authentication credentials (including usernames and passwords) on websites, emails, newsletters or any other types of electronic or print media is in violation of this use policy.

PERMITTED USE

Subject to these TOU, CGN hereby grants you the right to access and use the Product and/or Service. The Product and Service are only for your personal, non-commercial use. CGN retains all rights with respect to our Product, Service and Data except those expressly granted to you in this TOU.

NO UNLAWFUL OR PROHIBITED USE

As a condition of your use of the Product or Service, you warrant to CGN that you will not use the Product or Service for any purpose that is unlawful or prohibited by these TOU. You agree not to use the Product or Service in any manner that could damage, disable, overburden, or impair the Product or Service. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through CGN.

USER CONDUCT

As a user of the Product or Service you agree to the following rules of conduct and that any content that you upload, post, or otherwise transmit:

- a) Shall not restrict or inhibit any other user from using or enjoying the Product or Service.
- b) Shall not be unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable.
- c) Shall not be obscene or contain child or other pornography.
- d) Shall not violate any law, statute, ordinance, or regulation.
- e) Shall not contain advertising, promotional materials, "spam" or any solicitation with respect to products or services.
- f) Shall not infringe any third party's copyright, patent, trademark, trade secret, or other proprietary rights or rights of publicity or privacy.

- g) Shall not be content that you do not have a right to transmit under any law or under contractual or fiduciary relationship.
- h) Shall not contain software viruses or any other computer code, les or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment.
- i) Shall not interfere with or disrupt CGN's servers or networks connected to the Product or Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Product or Service.

LINKS

The Product, Service or Data may contain links to other Websites or resources. Because CGN has no control over such sites and resources, you acknowledge and agree that CGN is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for the Data or any other content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that CGN shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on the Data or any other content, goods or services available on or through any such site or resource. CGN has no control over these linked sites, all of which have separate privacy and data collection practices, independent of CGN. These links are only for your convenience and therefore you access them at your own risk.

Furthermore, should you choose to register or create an account on other sites accessed from the Product, Service or Data, whether CGN business partners or otherwise, you have full responsibility for understanding and agreeing to their terms of use and privacy and security policies with regard to any personally identifiable information you provide them and activities you perform on their sites. CGN is not responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

LIMITATIONS ON USE OF PRODUCT OR SERVICE

By using the Product or Service, you agree that the Service and Data may not be used to create applications that offer or promote services that may be damaging to, disparaging of or otherwise detrimental to CGN or its licensors, licensees, affiliates, and partners. In addition, the Service and Data may not be used for or to create applications that transfer, display or use Data from CGN except for those applications which are restricted to students, students' parents/guardians, teachers, counselors, school administrators or other persons within your school or district, specifically approved by CGN.

DISCLAIMER OF WARRANTIES

You expressly understand and agree that your use of the Product and Service is at your sole risk. The Product and Service are provided on an "as is" and "as available" basis. Except for any warranties expressly contained in a contractual agreement between you and CGN, CGN expressly disclaims all warranties of any kind, whether express or implied, including, but not limited to warranties of title or implied warranties of merchantability, fitness for a particular purpose and non-infringement. Without limiting the foregoing, CGN makes no warranty that (i) the Product and Service will meet your requirements, (ii) the Product and Service will be uninterrupted, timely, secure, or error-free, (iii) the results that may be obtained from the use of the Product and Service will be accurate or reliable, (iv) the quality of any products, services, information, or other material purchased or obtained by you through the service will meet your expectations, and (v) any errors in the software will be corrected. Any material downloaded or otherwise obtained through the use of the Product or Service is done at your own discretion and risk and that you will be solely responsible for any damage to your computer system or loss of data that results from the download of any such material. No advice or

information, whether oral or written, obtained by you from or through CGN or the Product or Service shall create any warranty not expressly stated in these TOU.

LIMITATION OF LIABILITY

You expressly understand and agree that CGN shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damage, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if CGN has been advised of the possibility of such damages) other than amounts paid to third parties in respect of any third party claim for which indemnification is otherwise required under these TOU, resulting from: (i) The use or the inability to use the Service; (ii) The cost of procurement of substitute goods and services resulting from any goods, data, information or services purchased or obtained or messages received or transactions entered into through or from the Service; (iii) Unauthorized disclosure of, access to or alteration of your transmissions or data; (iv) Statements or conduct of any third party on the Service; or (v) any other matter relating to the Service.

INDEMNIFICATION AND INSURANCE

You agree to indemnify, defend and hold CGN and its subsidiaries, affiliates, partners, officers, directors, agents, and employees harmless from any claim, demand liability, cost, expense, loss, judgment, penalty or damages, including reasonable attorneys' fees, made by any third party due to or arising out of content you submit, post to or transmit through the Product or Service, your use of the Product or the Service, your connection to the Product or the Service, the disclosure of such content, your negligence or willful misconduct, your breach of your responsibilities, representations or warranties under any contractual agreement between you and CGN, your violation of these TOU, or your violation of any rights of another.

INTELLECTUAL PROPERTY

CGN logos and product and service names are trademarks, service marks, and trade names (collectively the "Marks") of CGN. You acknowledge that CGN is the sole owner of the entire right, title and interest in the Marks and reserves all rights to the use of the Marks. All other trademarks and service marks appearing on the Product are the property of their respective owners. Unless otherwise noted, all other aspects of the Product or Service are either copyrighted or are the proprietary information and/or design of CGN. CGN is the sole owner of the entire right, title and interest to such intellectual property rights, including but not limited to text, design, graphics, interfaces, or code.

INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS

It is our policy to respond to claims of intellectual property infringement. CGN will promptly process and investigate notices of alleged infringement and will take appropriate actions under the Digital Millennium Copyright Act ("DMCA") and other applicable intellectual property laws. Upon receipt of notices complying or substantially complying with the DMCA, CGN will act expeditiously to remove or disable access to any material claimed to be infringing or claimed to be the subject of infringing activity and will CGN expeditiously to remove or disable access to any reference or link to material or activity that is claimed to be infringing.

Notices of claimed infringement should be directed to: admin@collegguidancenetwork.com

Please put "Notice of Infringement" in the subject line of all such notifications. When CGN removes or disables access to any material claimed to be infringing, CGN may attempt to contact the owner/administrator of the site that contains such material in order to provide an opportunity to respond to the notification, although CGN

makes no promise to do so. Any and all counter notifications submitted by the owner/administrator of the site will be furnished to the complaining party. CGN will give the complaining party an opportunity to seek judicial relief in accordance with the DMCA before CGN replaces or restores access to any material as a result of any counter notification.

CGN BRANDS

If CGN has granted to you a license under a contractual agreement between you and CGN, such license is a limited, nonexclusive, revocable, non-sublicensable and non-transferable license to display the trade names, trademarks, service marks, logos, copyright notices, domain names and other distinctive brands of Company (cumulatively, the "CGN Brands") in accordance with these TOU and solely for attributing the source of the Product, Service and Data, and for the purpose of promoting or advertising that you use the Product or Service in certain of your applications. Your use of the CGN Brands (including any associated goodwill) shall inure to CGN's benefit.

You may not do any of the following with respect to the CGN Brands:

- a) Use or display them in any manner that implies a relationship or affiliation with, sponsorship or endorsement by CGN, other than your licensed right to use the Product, Service or Data.
- b) Use or display them to disparage CGN, its products or services.
- c) Use or display them in a way that tarnishes, dilutes or otherwise impairs them.
- d) Use or display them on your Web site if it contains or promotes illegal actions or activities.
- e) Use or display them in a manner that is misleading, defamatory, infringing, libelous, disparaging, obscene or otherwise objectionable to CGN.
- f) Remove, obscure, distort or alter any element thereof.

GENERAL INFORMATION

These TOU constitute the entire agreement between you and CGN and govern your use of the Product and the Service. These TOU and the relationship between you and CGN shall be governed by the laws of the [State of xxx] without regard to conflict of law provisions. You and CGN agree to submit to the personal and exclusive jurisdiction of the courts located within the state of New Hampshire. The failure of CGN to exercise or enforce any right or provision of these TOU shall not constitute a waiver of such right or provision. If any provision of these TOU is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these TOU remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Product or Service or these TOU must be filed within one (1) year after such claim or cause of action arose or be forever barred. You acknowledge that accounts on the Product or Service may not be assigned without the prior written consent of CGN.

The section titles in these TOU are for convenience only and have no legal or contractual effect.

(Appendix 3)

**STANDARD STUDENT DATA PRIVACY AGREEMENT
MASSACHUSETTS, MAINE, NEW HAMPSHIRE, RHODE ISLAND, AND VERMONT**

MA-ME-NH-RI-VT-NDPA, Standard Version 1.0

WAYLAND PUBLIC SCHOOLS

and

College Guidance Network, Inc.

This Student Data Privacy Agreement (“DPA”) is entered into on the date of full execution (the “Effective Date”) and is entered into by and between: Wayland Public Schools, located at 41 Cochituate Rd, Wayland, MA 01778 (the “Local Education Agency” or “LEA”) and College Guidance Network, Inc., located at 37 Saddle Club Road, Lexington, MA 02420 (the “Provider”).

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 Protection Act (“COPPA”) at 15 U.S.C. § 6501-6506 (16 CFR Part 312), 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.
4. This DPA shall stay in effect for three years. Exhibit E will expire 3 years from the date the original DPA was signed.
5. The services to be provided by Provider to LEA pursuant to this DPA are detailed in **Exhibit “A”** (the “Services”).
6. **Notices**. All notices or other communication required or permitted to be given hereunder may be given via e-mail transmission, or first-class mail, sent to the designated representatives below.

The designated representative for the Provider for this DPA is:

Name: Robert S. Block Title: Co-founder

Address: 37 Saddle Club Road, Lexington MA 02420

Phone: 609-658-5765

Email: bob@collegguidancenetwork.com

The designated representative for the LEA for this DPA is:

Leisha Simon, Technology Director
41 Cochituate Rd., Wayland, MA 01778
Tel 508-358-7228
leisha_simon@waylandps.org

IN WITNESS WHEREOF, LEA and Provider execute this DPA as of the Effective Date.

WAYLAND PUBLIC SCHOOLS

By: *Leisha Simon*
Leisha Simon (Feb 2, 2023 16:56 EST)

Date: 2/2/23

Printed Name: Leisha Simon

Title/Position: Director of Technology

College Guidance Network, Inc.

By: *Robert S. Block*
Robert S. Block (Jan 31, 2023 09:54 EST)

Date: January 31, 2023

Printed Name: Robert S. Block

Title/Position: Co-founder

STANDARD CLAUSES

Version 1.0

ARTICLE I: PURPOSE AND SCOPE

1. **Purpose of DPA.** The purpose of this DPA is to describe the duties and responsibilities to protect Student Data including compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time. In performing these services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the LEA. Provider shall be under the direct control and supervision of the LEA, with respect to its use of Student Data
2. **Student Data to Be Provided.** In order to perform the Services described above, LEA shall provide Student Data as identified in the Schedule of Data, attached hereto as **Exhibit "B"**.
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

1. **Student Data Property of LEA.** All Student Data transmitted to the Provider pursuant to the Service Agreement is and will continue to be the property of and under the control of the LEA. The Provider further acknowledges and agrees that all copies of such Student Data transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are subject to the provisions of this DPA in the same manner as the original Student Data. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data contemplated per the Service Agreement, shall remain the exclusive property of the LEA. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the LEA as it pertains to the use of Student Data, notwithstanding the above.
2. **Parent Access.** 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 correct erroneous information, and procedures for the transfer of student-generated content to a personal account, consistent with the functionality of 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.
3. **Separate Account.** If Student-Generated Content is stored or maintained by the Provider, Provider shall, at the request of the LEA, transfer, or provide a mechanism for the LEA to transfer, said Student-Generated Content to a separate account created by the student.

4. **Law Enforcement Requests.** Should law enforcement or other government entities (“Requesting Party(ies)”) contact Provider with a request for Student Data held by the Provider pursuant to the Services, the Provider shall notify the LEA in advance of a compelled disclosure to the Requesting Party, unless lawfully directed by the Requesting Party not to inform the LEA of the request.
5. **Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions for the Provider in order for the Provider to provide the Services pursuant to the Service Agreement, whereby the Subprocessors agree to protect Student Data in a manner no less stringent than the terms of this DPA.

ARTICLE III: DUTIES OF LEA

1. **Provide Data in Compliance with Applicable Laws.** LEA shall provide Student Data for the purposes of obtaining the Services in compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time.
2. **Annual Notification of Rights.** If the LEA has a policy of disclosing Education Records 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. **Reasonable Precautions.** LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted Student Data.
4. **Unauthorized Access Notification.** LEA shall notify Provider promptly of any known unauthorized access. LEA will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

ARTICLE IV: DUTIES OF PROVIDER

1. **Privacy Compliance.** The Provider shall comply with all applicable federal, state, and local laws, rules, and regulations pertaining to Student Data privacy and security, all as may be amended from time to time.
2. **Authorized Use.** The Student Data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services outlined in Exhibit A or stated in the Service Agreement and/or otherwise authorized under the statutes referred to herein this DPA.
3. **Provider Employee Obligation.** Provider shall require all of Provider’s employees and agents who have access to Student Data to comply with all applicable provisions of this DPA with respect to the Student Data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to Student Data pursuant to the Service Agreement.
4. **No Disclosure.** 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

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Date 3.20.23

permitted by the LEA or this DPA. This prohibition against disclosure shall not apply to aggregate summaries of De-Identified information, 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 Sell Student Data to any third party.

5. **De-Identified Data**: 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 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.
6. **Disposition of Data**. Upon written request from the LEA, Provider shall dispose of or provide a mechanism for the LEA to transfer Student Data obtained under the Service Agreement, within sixty (60) days of the date of said request and according to a schedule and procedure as the Parties may reasonably agree. Upon termination of this DPA, if no written request from the LEA is received, Provider shall dispose of all Student Data after providing the LEA with reasonable prior notice. The duty to dispose of Student Data shall not extend to Student Data that had been De-Identified or placed in a separate student account pursuant to section II 3. The LEA may employ a "Directive for Disposition of Data" form, a copy of which is attached hereto as **Exhibit "D"**. If the LEA and Provider employ Exhibit "D," no further written request or notice is required on the part of either party prior to the disposition of Student Data described in Exhibit "D".
7. **Advertising Limitations**. 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. 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; or (iii) to notify account holders about new education product updates, features, or services or from otherwise using Student Data as permitted in this DPA and its accompanying exhibits

ARTICLE V: DATA PROVISIONS

1. **Data Storage**. Where required by applicable law, Student Data shall be stored within the United States. Upon request of the LEA, Provider will provide a list of the locations where Student Data is stored.
2. **Audits**. 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 . The Provider will cooperate reasonably with the LEA and any local, state, or federal

Contractor Initials JC
Date 3.20.23

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. **Data Security.** The Provider agrees to utilize administrative, physical, and technical safeguards 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 based on one of the nationally recognized standards set forth in **Exhibit "F"**. Exclusions, variations, or exemptions to the identified Cybersecurity Framework must be detailed in an attachment. 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. **Data Breach.** 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 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 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 VI: GENERAL OFFER OF TERMS

Provider may, by signing the attached form of "General Offer of Privacy Terms" (General Offer, attached hereto as **Exhibit "E"**), be bound by the terms of **Exhibit "E"** to any other LEA who signs the acceptance on said Exhibit. The form is limited by the terms and conditions described therein.

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 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 all of LEA's Student Data pursuant to Article IV, section 6.
3. **Priority of Agreements.** This DPA shall govern the treatment of Student Data in order to comply with the privacy protections, including those found in FERPA and all applicable privacy statutes identified in this DPA. In the event there is conflict between the terms of the DPA and the Service Agreement, Terms of Service, Privacy Policies, or with any other bid/RFP, license agreement, or writing, the terms of this DPA shall apply and take precedence. In the event of a conflict between the SDPC Standard Clauses and the Supplemental State Terms, the Supplemental State Terms will control. Except as described in this paragraph herein, all other provisions of the Service Agreement shall remain in effect.
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.

Contractor Initials JC
Date 3.20.23

5. **Severability.** Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the Parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.

6. **Governing Law; Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF THE LEA, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS FOR THE COUNTY OF THE LEA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS DPA OR THE TRANSACTIONS CONTEMPLATED HEREBY.

7. **Successors Bound:** This DPA is and shall be binding upon the respective successors in interest to Provider in the event of a merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of such business. In the event that the Provider sells, merges, or otherwise disposes of its business to a successor during the term of this DPA, the Provider shall provide written notice to the LEA no later than sixty (60) days after the closing date of sale, merger, or disposal. Such notice shall include a written, signed assurance that the successor will assume the obligations of the DPA and any obligations with respect to Student Data within the Service Agreement. The LEA has the authority to terminate the DPA if it disapproves of the successor to whom the Provider is selling, merging, or otherwise disposing of its business.

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

9. **Waiver.** No delay or omission by either party to exercise any right hereunder shall be construed as a waiver of any such right and both parties reserve the right to exercise any such right from time to time, as often as may be deemed expedient.

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Date 3.20.23

EXHIBIT "A"

DESCRIPTION OF SERVICES

CGN School, a college and career content platform that provides a comprehensive, trusted resource of expert information to students and their families.

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Date 3.20.23

EXHIBIT "B"
SCHEDULE OF DATA

Category of Data	Elements	Check if Used by Your System
Application Technology Meta Data	IP Addresses of users, Use of cookies, etc.	X
	Other application technology meta data-Please specify:	
Application Use Statistics	Meta data on user interaction with application	X
Assessment	Standardized test scores	
	Observation data	
	Other assessment data-Please specify:	
Attendance	Student school (daily) attendance data	
	Student class attendance data	
Communications	Online communications captured (emails, blog entries)	
Conduct	Conduct or behavioral data	
Demographics	Date of Birth	
	Place of Birth	
	Gender	
	Ethnicity or race	
	Language information (native, or primary language spoken by student)	
	Other demographic information-Please specify:	
Enrollment	Student school enrollment	X
	Student grade level	X
	Homeroom	
	Guidance counselor	X
	Specific curriculum programs	
	Year of graduation	X
	Other enrollment information-Please specify:	
Parent/Guardian Contact Information	Address	
	Email	X
	Phone	
Parent/Guardian ID	Parent ID number (created to link parents to students)	

Category of Data	Elements		Check if Used by Your System
Parent/Guardian Name	First and/or Last		X
Schedule	Student scheduled courses		
	Teacher names		
Special Indicator	English language learner information		
	Low income status		
	Medical alerts/ health data		
	Student disability information		
	Specialized education services (IEP or 504)		
	Living situations (homeless/foster care)		
	Other indicator information-Please specify:		
Student Contact Information	Address		
	Email		X
	Phone		
Student Identifiers	Local (School district) ID number		
	State ID number		
	Provider/App assigned student ID number		
	Student app username		X
	Student app passwords		
Student Name	First and/or Last		X
Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)		
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in		
Student Survey Responses	Student responses to surveys or questionnaires		
Student work	Student generated content; writing, pictures, etc.		
	Other student work data -Please specify:		
Transcript	Student course grades		
	Student course data		
	Student course grades/ performance scores		
	Other transcript data - Please specify:		
Transportation	Student bus assignment		

Category of Data	Elements		Check if Used by Your System
	Student pick up and/or drop off location		
	Student bus card ID number		
	Other transportation data – Please specify:		
Other	Please list each additional data element used, stored, or collected by your application:		
None	No Student Data collected at this time. Provider will immediately notify LEA if this designation is no longer applicable.		

EXHIBIT "C"
DEFINITIONS

De-Identified Data and De-Identification: Records and information are considered to be de-identified when all personally identifiable information has been removed or obscured, such that the remaining information does not reasonably identify a specific individual, including, but not limited to, any information that, alone or in combination is linkable to a specific student and provided that the educational agency, or other party, has made a reasonable determination that a student's identity is not personally identifiable, taking into account reasonable available information.

Educational 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 Personally Identifiable Information.

Operator: means the operator of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for K-12 school purposes. Any entity that operates an internet website, online service, online application, or mobile application that has entered into a signed, written agreement with an LEA to provide a service to that LEA shall be considered an "operator" for the purposes of this section.

Originating LEA: An LEA who originally executes the DPA in its entirety with the Provider.

Provider: For purposes of the DPA, the term "Provider" means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Student Data. Within the DPA the term "Provider" includes the term "Third Party" and the term "Operator" as used in applicable state statutes.

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.

School Official: For the purposes of this DPA and pursuant to 34 CFR § 99.31(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 Contract, Purchase Order or Terms of Service or Terms of Use.

Student Data: Student Data includes any data, whether gathered by Provider or provided by LEA or its users, students, or students' parents/guardians, that is descriptive of the student including, but not limited to, information in the student's educational record or email, first and last name, birthdate, home or other physical address, telephone number, email address, or other information allowing physical or online contact, discipline

records, videos, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security numbers, biometric information, disabilities, socioeconomic information, individual purchasing behavior or preferences, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, geolocation information, parents' names, or any other information or identification number that would provide information about a specific student. Student Data includes Meta Data. Student Data further includes "personally identifiable information (PII)," as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law. Student Data shall constitute Education Records for the purposes of this DPA, and for the purposes of federal, state, and local laws and regulations. Student Data as specified in **Exhibit "B"** is confirmed to be collected or processed by the Provider pursuant to the Services. Student Data shall not constitute that information that has been anonymized or de-identified, or anonymous usage data regarding a student's use of Provider's services.

Subprocessor: For the purposes of this DPA, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than LEA or Provider, who Provider uses for data collection, analytics, storage, or other service to operate and/or improve its service, and who has access to Student Data.

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

Targeted Advertising: means presenting an advertisement to a student where the selection of the advertisement is based on Student Data or inferred over time from the usage of the operator's Internet web site, online service or mobile application by such student or the retention of such student's online activities or requests over time for the purpose of targeting subsequent advertisements. "Targeted advertising" does not include any advertising to a student on an Internet web site based on the content of the web page or in response to a student's response or request for information or feedback.

Third Party: The term "Third Party" means a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Education Records and/or Student Data, as that term is used in some state statutes. However, for the purpose of this DPA, the term "Third Party" when used to indicate the provider of digital educational software or services is replaced by the term "Provider."

EXHIBIT "D"
DIRECTIVE FOR DISPOSITION OF DATA

[Insert Name of District or LEA] Provider to dispose of data obtained by Provider pursuant to the terms of the Service Agreement between LEA and Provider. The terms of the Disposition are set forth below:

1. Extent of Disposition

_____ Disposition is partial. The categories of data to be disposed of are set forth below or are found in an attachment to this Directive:

[Insert categories of data here]

_____ Disposition is Complete. Disposition extends to all categories of data.

2. Nature of Disposition

_____ Disposition shall be by destruction or deletion of data.

_____ Disposition shall be by a transfer of data. The data shall be transferred to the following site as follows:

[Insert or attach special instructions]

3. Schedule of Disposition

Data shall be disposed of by the following date:

_____ As soon as commercially practicable.

_____ By **[Insert Date]**

4. Signature

Authorized Representative of LEA

Date

5. Verification of Disposition of Data

Authorized Representative of Company

Date

EXHIBIT "E"
GENERAL OFFER OF PRIVACY TERMS

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and **Wayland Public Schools** ("Originating LEA") which is dated 2/2/23, 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 statutes; (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: bob@colleaeaidancenetwork.com.

College Guidance Network, Inc.

BY: Robert S. Block Date: January 31, 2023
Robert S. Block (Jan 31, 2023 09:54 EST)

Printed Name: Robert S. Block Title/Position: Co-founder

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

Subscribing LEA: (School District Name): _____

BY: _____ Date: _____

Printed Name: _____ Title/Position: _____

DESIGNATED REPRESENTATIVE OF LEA:

Name: _____

Title: _____

Address: _____

Telephone Number: _____

Email: _____

EXHIBIT "F"
DATA SECURITY REQUIREMENTS

Adequate Cybersecurity Frameworks
2/24/2020

The Education Security and Privacy Exchange ("Edspex") works in partnership with the Student Data Privacy Consortium and industry leaders to maintain a list of known and credible cybersecurity frameworks which can protect digital learning ecosystems chosen based on a set of guiding cybersecurity principles* ("Cybersecurity Frameworks") that may be utilized by Provider .

Cybersecurity Frameworks

	MAINTAINING ORGANIZATION/GROUP	FRAMEWORK(S)
	National Institute of Standards and Technology	NIST Cybersecurity Framework Version 1.1
	National Institute of Standards and Technology	NIST SP 800-53, Cybersecurity Framework for Improving Critical Infrastructure Cybersecurity (CSF), Special Publication 800-171
	International Standards Organization	Information technology — Security techniques — Information security management systems (ISO 27000 series)
	Secure Controls Framework Council, LLC	Security Controls Framework (SCF)
	Center for Internet Security	CIS Critical Security Controls (CSC, CIS Top 20)
	Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S))	Cybersecurity Maturity Model Certification (CMMC, ~FAR/DFAR)

Please visit <http://www.edspex.org> for further details about the noted frameworks.

*Cybersecurity Principles used to choose the Cybersecurity Frameworks are located here

EXHIBIT "G"
Massachusetts

WHEREAS, the documents and data transferred from LEAs and created by the Provider's Services are also subject to several state laws in Massachusetts. Specifically, those laws are 603 C.M.R. 23.00, Massachusetts General Law, Chapter 71, Sections 34D to 34H and 603 CMR 28.00; and

WHEREAS, the Parties wish to enter into these supplemental terms to the DPA to ensure that the Services provided conform to the requirements of the privacy laws referred to above and to establish implementing procedures and duties;

WHEREAS, the Parties wish these terms to be hereby incorporated by reference into the DPA in their entirety for Massachusetts;

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

1. In Article IV, Section 2, replace "otherwise authorized," with "otherwise required" and delete "or stated in the Service Agreement."
2. All employees of the Provider who will have direct contact with students shall pass criminal background checks.
3. In Article V, Section 1 Data Storage: Massachusetts does not require data to be stored within the United States.

EXHIBIT "G"
Maine

WHEREAS, the documents and data transferred from LEAs and created by the Provider's Services are also subject to several state laws in Maine. Specifically, those laws are 20-A M.R.S. §6001-6005.; 20-A M.R.S. §951 et. seq., Maine Unified Special Education Regulations, Maine Dep't of Edu. Rule Ch. 101; and

WHEREAS, the Parties wish to enter into these supplemental terms to the DPA to ensure that the Services provided conform to the requirements of the privacy laws referred to above and to establish implementing procedures and duties;

WHEREAS, the Parties wish these terms to be hereby incorporated by reference into the DPA in their entirety for Maine;

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

1. In Article IV, Section 2, replace "otherwise authorized," with "otherwise required" and delete "or stated in the Service Agreement."
2. All employees of the Provider who will have direct contact with students shall pass criminal background checks.
3. In Article V, Section 1 Data Storage: Maine does not require data to be stored within the United States.
4. The Provider may not publish on the Internet or provide for publication on the Internet any Student Data.
5. If the Provider collects student social security numbers, the Provider shall notify the LEA of the purpose the social security number will be used and provide an opportunity not to provide a social security number if the parent and/or student elects.
6. The parties agree that the definition of Student Data in Exhibit "C" includes the name of the student's family members, the student's place of birth, the student's mother's maiden name, results of assessments administered by the State, LEA or teacher, including participating information, course transcript information, including, but not limited to, courses taken and completed, course grades and grade point average, credits earned and degree, diploma, credential attainment or other school exit information, attendance and mobility information between and within LEAs within Maine, student's gender, race and ethnicity, educational program participation information required by state or federal law and email.
7. The parties agree that the definition of Student Data in Exhibit "C" includes information that:
 - a. Is created by a student or the student's parent or provided to an employee or agent of the LEA or a Provider in the course of the student's or parent's use of the Provider's website, service or application for kindergarten to grade 12 school purposes;
 - b. Is created or provided by an employee or agent of the LEA, including information provided to the Provider in the course of the employee's or agent's use of the Provider's website, service or application for kindergarten to grade 12 school purposes; or
 - c. Is gathered by the Provider through the operation of the Provider's website, service or application for kindergarten to grade 12 school purposes.

EXHIBIT "G"
Rhode Island

WHEREAS, the documents and data transferred from LEAs and created by the Provider's Services are also subject to several state laws in Rhode Island. Specifically, those laws are R.I.G.L. 16-71-1, et. seq., R.I.G.L. 16-104-1, and R.I.G.L. 11-49.3 et. seq.; and

WHEREAS, the Parties wish to enter into these supplemental terms to the DPA to ensure that the Services provided conform to the requirements of the privacy laws referred to above and to establish implementing procedures and duties;

WHEREAS, the Parties wish these terms to be hereby incorporated by reference into the DPA in their entirety for Rhode Island;

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

1. In Article IV, Section 2, replace "otherwise authorized," with "otherwise required" and delete "or stated in the Service Agreement."
2. All employees of the Provider who will have direct contact with students shall pass criminal background checks.
3. In Article V, Section 1 Data Storage: Rhode Island does not require data to be stored within the United States.
4. The Provider agrees that this DPA serves as its written certification of its compliance with R.I.G.L. 16-104-1.
5. The Provider agrees to implement and maintain a risk-based information security program that contains reasonable security procedures.
6. In the case of a data breach, as a part of the security breach notification outlined in Article V, Section 4(1), the Provider agrees to provide the following additional information:
 - i. Information about what the Provider has done to protect individuals whose information has been breached, including toll free numbers and websites to contact:
 1. The credit reporting agencies
 2. Remediation service providers
 3. The attorney general
 - ii. Advice on steps that the person whose information has been breached may take to protect himself or herself.
 - iii. A clear and concise description of the affected parent, legal guardian, staff member, or eligible student's ability to file or obtain a police report; how an affected parent, legal guardian, staff member, or eligible student's requests a security freeze and the necessary information to be provided when requesting the security freeze; and that fees may be required to be paid to the consumer reporting agencies.

EXHIBIT "G"
Vermont

WHEREAS, the documents and data transferred from LEAs and created by the Provider's Services are also subject to several state laws in Vermont. Specifically, those laws are 9 VSA 2443 to 2443f; 16 VSA 1321 to 1324; and

WHEREAS, the Parties wish to enter into these supplemental terms to the DPA to ensure that the Services provided conform to the requirements of the privacy laws referred to above and to establish implementing procedures and duties;

WHEREAS, the Parties wish these terms to be hereby incorporated by reference into the DPA in their entirety for Vermont;

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

1. In Article IV, Section 2, replace "otherwise authorized," with "otherwise required" and delete "or stated in the Service Agreement."
2. All employees of the Provider who will have direct contact with students shall pass criminal background checks.
3. In Article V, Section 1 Data Storage: Vermont does not require data to be stored within the United States.

EXHIBIT "G"
New Hampshire

WHEREAS, the documents and data transferred from LEAs and created by the Provider's Services are also subject to several state laws in New Hampshire. Specifically, those laws are RSA 189:1-e and 189:65-68-a; RSA 186; NH Admin. Code Ed. 300 and NH Admin. Code Ed. 1100; and

WHEREAS, the Parties wish to enter into these supplemental terms to the DPA to ensure that the Services provided conform to the requirements of the privacy laws referred to above and to establish implementing procedures and duties;

WHEREAS, the Parties wish these terms to be hereby incorporated by reference into the DPA in their entirety for New Hampshire;

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

1. All references in the DPA to "Student Data" shall be amended to state "Student Data and Teacher Data." "Teacher Data" is defined as at least the following:

Social security number.

Date of birth.

Personal street address.

Personal email address.

Personal telephone number

Performance evaluations.

Other information that, alone or in combination, is linked or linkable to a specific teacher, paraprofessional, principal, or administrator that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify any with reasonable certainty.

Information requested by a person who the department reasonably believes or knows the identity of the teacher, paraprofessional, principal, or administrator to whom the education record relates.

"Teacher" means teachers, paraprofessionals, principals, school employees, contractors, and other administrators.

2. In order to perform the Services described in the DPA, the LEA shall provide the categories of Teacher Data described in the Schedule of Data, attached hereto as **Exhibit "I"**.
3. In Article IV, Section 2, replace "otherwise authorized," with "otherwise required" and delete "or stated in the Service Agreement."
4. In Article IV, Section 7 amend each reference to "students," to state: "students, teachers,..."
5. All employees of the Provider who will have direct contact with students shall pass criminal background checks.
6. Provider is prohibited from leasing, renting, or trading Student Data or Teacher Data to (a) market or advertise to students, teachers, or families/guardians; (b) inform, influence, or enable marketing, advertising or other commercial efforts by a Provider; (c) develop a profile of a student, teacher, family member/guardian or group, for any commercial purpose other than providing the Service to LEA; or (d) use the Student Data and Teacher Data for the development of commercial products or services, other than as necessary to provide the Service to the LEA. This section does not prohibit Provider from using Student Data and Teacher Data for adaptive learning or customized student learning purposes.

7. The Provider agrees to the following privacy and security standards. Specifically, the Provider agrees to:

- (1) Limit system access to the types of transactions and functions that authorized users, such as students, parents, and LEA are permitted to execute;
- (2) Limit unsuccessful logon attempts;
- (3) Employ cryptographic mechanisms to protect the confidentiality of remote access sessions;
- (4) Authorize wireless access prior to allowing such connections;
- (5) Create and retain system audit logs and records to the extent needed to enable the monitoring, analysis, investigation, and reporting of unlawful or unauthorized system activity;
- (6) Ensure that the actions of individual system users can be uniquely traced to those users so they can be held accountable for their actions;
- (7) Establish and maintain baseline configurations and inventories of organizational systems (including hardware, software, firmware, and documentation) throughout the respective system development life cycles;
- (8) Restrict, disable, or prevent the use of nonessential programs, functions, ports, protocols, and services;
- (9) Enforce a minimum password complexity and change of characters when new passwords are created;
- (10) Perform maintenance on organizational systems;
- (11) Provide controls on the tools, techniques, mechanisms, and personnel used to conduct system maintenance;
- (12) Ensure equipment removed for off-site maintenance is sanitized of any Student Data or Teacher Data in accordance with NIST SP 800-88 Revision 1;
- (13) Protect (i.e., physically control and securely store) system media containing Student Data or Teacher Data, both paper and digital;
- (14) Sanitize or destroy system media containing Student Data or Teacher Data in accordance with NIST SP 800-88 Revision 1 before disposal or release for reuse;
- (15) Control access to media containing Student Data or Teacher Data and maintain accountability for media during transport outside of controlled areas;
- (16) Periodically assess the security controls in organizational systems to determine if the controls are effective in their application and develop and implement plans of action designed to correct deficiencies and reduce or eliminate vulnerabilities in organizational systems;

- (17) Monitor, control, and protect communications (i.e., information transmitted or received by organizational systems) at the external boundaries and key internal boundaries of organizational systems;
- (18) Deny network communications traffic by default and allow network communications traffic by exception (i.e., deny all, permit by exception);
- (19) Protect the confidentiality of Student Data and Teacher Data at rest;
- (20) Identify, report, and correct system flaws in a timely manner;
- (21) Provide protection from malicious code (i.e. Antivirus and Antimalware) at designated locations within organizational systems;
- (22) Monitor system security alerts and advisories and take action in response; and
- (23) Update malicious code protection mechanisms when new releases are available.

Alternatively, the Provider agrees to comply with one of the following standards: (1) NIST SP 800-171 rev 2, Basic and Derived Requirements; (2) NIST SP 800-53 rev 4 or newer, Low Impact Baseline or higher; (3) FedRAMP (Federal Risk and Authorization Management Program); (4) ISO/IEC 27001:2013; (5) Center for Internet Security (CIS) Controls, v. 7.1, Implementation Group 1 or higher; (6) AICPA System and Organization Controls (SOC) 2, Type 2; and (7) Payment Card Industry Data Security Standard (PCI DSS), v3.2.1. The Provider will provide to the LEA on an annual basis and upon written request demonstration of successful certification of these alternative standards in the form of a national or international Certification document; an Authorization to Operate (ATO) issued by a state or federal agency, or by a recognized security standards body; or a Preliminary Authorization to Operate (PATO) issued by the FedRAMP Joint Authorization Board (JAB).

- 8. In the case of a data breach, as a part of the security breach notification outlined in Article V, Section 4(1), the Provider agrees to provide the following additional information:
 - i. The estimated number of students and teachers affected by the breach, if any.
- 9. The parties agree to add the following categories into the definition of Student Data: the name of the student's parents or other family members, place of birth, social media address, unique pupil identifier, and credit card account number, insurance account number, and financial services account number.
- 10. In Article V, Section 1 Data Storage: New Hampshire does not require data to be stored within the United States.

EXHIBIT "I" – TEACHER DATA

Category of Data	Elements		Check if used by your system
Application Technology Meta Data	IP Addresses of users, Use of cookies etc.		X
	Other application technology meta data-Please specify:		
Application Use Statistics	Meta data on user interaction with application		X
Communications	Online communications that are captured (emails, blog entries)		
Demographics	Date of Birth		
	Place of Birth		
	Social Security Number		
	Ethnicity or race		
	Other demographic information-Please specify:		
Personal Contact Information	Personal Address		
	Personal Email		
	Personal Phone		
Performance evaluations	Performance Evaluation Information		
Schedule	Teacher scheduled courses		
	Teacher calendar		
Special Information	Medical alerts		
	Teacher disability information		
	Other indicator information-Please specify:		
Teacher Identifiers	Local (School district) ID number		
	State ID number		
	Vendor/App assigned student ID number		
	Teacher app username		x
	Teacher app passwords		
Teacher In App Performance	Program/application performance		
Teacher Survey Responses	Teacher responses to surveys or questionnaires		X
Teacher work	Teacher generated content; writing, pictures etc.		
	Other teacher work data -Please specify:		
Education	Course grades from schooling		
	Other transcript data -Please specify:		
Other	Please list each additional data element used, stored or collected by your application		

Contractor Initials JC
Date 3.20.23

State of New Hampshire

Department of State

CERTIFICATE OF AUTHORITY OF COLLEGE GUIDANCE NETWORK, INC.

The Secretary of State of the State of New Hampshire hereby certifies that an Application of **COLLEGE GUIDANCE NETWORK, INC.** for a Certificate of Authority to transact business in this State, duly signed pursuant to the provisions of the New Hampshire Business Corporation Act, has been received in this office.

ACCORDINGLY the undersigned, by virtue of the authority vested in him by law, hereby issues this Certificate of Authority to **COLLEGE GUIDANCE NETWORK, INC.** to transact business in this State under the name of **COLLEGE GUIDANCE NETWORK, INC.**, and attaches hereto a copy of the Application for such Certificate.

Business ID: 921513



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 23rd day of February 2023 A.D.

A handwritten signature in black ink, appearing to read "D. Scanlan", is written over a faint circular stamp.

David M. Scanlan
Secretary of State

Business Information

Business Details

Business Name:	COLLEGE GUIDANCE NETWORK, INC.	Business ID:	921513
Business Type:	Foreign Profit Corporation	Business Status:	Good Standing
Business Creation Date:	02/23/2023	Name in State of Incorporation:	COLLEGE GUIDANCE NETWORK, INC.
Date of Formation in Jurisdiction:	11/05/2019	Mailing Address:	37 Saddle Club Road, Lexington, MA, 02420, USA
Principal Office Address:	37 Saddle Club Road, Lexington, MA, 02420, USA	Last Annual Report Year:	N/A
Citizenship / State of Incorporation:	Foreign/Delaware	Next Report Year:	2024
Duration:	Perpetual	Phone #:	609-658-5765
Business Email:	bob@collegeguidancenetwork.com	Fiscal Year End Date:	NONE
Notification Email:	bob@collegeguidancenetwork.com		

Principal Purpose

S.No	NAICS Code	NAICS Subcode
1	Educational Services	All Other Miscellaneous Schools and Instruction

Page 1 of 1, records 1 to 1 of 1

Principals Information

Name/Title	Business Address
Jonathan Carson / Chief Executive Officer	37 Saddle Club Road, Lexington, MA, 02420, USA
Jonathan Carson / Director	37 Saddle Club Road, Lexington, MA, 02420, USA

Page 1 of 1, records 1 to 2 of 2

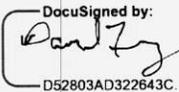
Corporate Resolution

I, David Feinberg, **hereby certify** that I am the duly elected Secretary of College Guidance Network, Inc. I hereby certify the following is a true copy of a Unanimous Written Consent of Directors in Lieu of a Meeting of the Board of Directors, effective on March 15, 2023, which was signed by all directors of the corporation.

VOTED: That Jon Carson (President and Treasurer) and David Feinberg (Secretary) are each duly authorized to enter into contracts or agreements on behalf of College Guidance Network, Inc. with the State of New Hampshire and any of its agencies or departments and further each is authorized to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this consent.

I **hereby certify** that said consent has not been amended or repealed and remains in full force and effect as of the date of the contract to which this certificate is attached. This authority **remains valid for thirty (30)** days from the date of this Corporate Resolution. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

DATED: 3/16/2023

ATTEST: 
David H. Feinberg, Secretary



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/24/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Amplified Insurance Partners 30 Southwest Park Westwood MA 02090	CONTACT NAME	Monica Wojnilo	
	PHONE (A/C, No, Ext)	(617) 964-5340	FAX (A/C, No) (617) 965-1843
	E-MAIL ADDRESS	mwojnilo@telamonins.com	
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A	ACE Property & Casualty Ins. Co	20699C
INSURED College Guidance Network, Inc. C/O Collard Advisory 37 Saddle Club Road Lexington MA 02420	INSURER B		
	INSURER C		
	INSURER D		
	INSURER E		
	INSURER F		

COVERAGES CERTIFICATE NUMBER: CL2322433665 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				12/21/2022	12/21/2023	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLA MS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV NJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COM/OP AGG \$ 2,000,000
							HNOA \$ 1,000,000
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						BODILY NJURY (Per person) \$
							BODILY NJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB				12/21/2022	12/21/2023	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLA MS-MADE						AGGREGATE \$ 1,000,000
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				E L EACH ACC DENT \$
							E L DISEASE - EA EMPLOYEE \$
							E L DISEASE - POLICY LIMIT \$
A	Business Personal Property				21/2022	12/21/2023	Limit \$10,700 Deductible \$500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER Department of Education 25 Hall Street Concord, NH 03301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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