

STUDENT DATA PRIVACY SPECIAL TERMS AND CONDITIONS ADDENDUM TO THE Q-GLOBAL SUBSCRIPTION AND LICENSE AGREEMENT

This Student Data Privacy Special Terms and Conditions dated Mar 30, 2017 (hereinafter "Agreement") is by and between Cambridge Public Schools ("CPS") and NCS Pearson, Inc., through its Clinical Assessment business ("Contractor"), a contractor performing institutional services and functions as described in the Q-global Subscription and License Agreement ("Services Agreement") that will require student data to perform those services and functions.

1. Contractor and CPS have contracted or will contract for the Contractor to provide **non-transferable, nonexclusive license to use the Q-global Scoring and Reporting System product ("Q-global") to enable administration, scoring, and reporting individual assessments published by Pearson of selected Pearson assessments which, may be modified from time to time and retention of examinee raw data ("the Services")**, which are institutional services and functions, to CPS. In the course of performing the Services, Contractor will obtain confidential student records and/or confidential student record information that contain personally identifiable student records, data and/or personally identifiable information and other non-public information, including, but not limited to student data, meta data and user content ("Data Files"). CPS and Contractor acknowledge and agree that this Agreement is for the purpose of sharing Data Files between the parties in a manner consistent with the Family Education Records Privacy Act of 1974 ("FERPA") and Massachusetts student record regulations, 603 C.M.R. 23.00 ("State Regulations"). The Data Files will be used by the Contractor and its employees for the purpose of delivering these Services. Contractor further acknowledges and agrees that all copies of such Data Files, including any modifications or additions to Data Files or any portion thereof from any source, are subject to the provisions of this Agreement in the same manner as the original Data Files. The ability to access or maintain Data Files and/or any portion thereof under this Agreement shall not under any circumstance transfer from Contractor or Contractor's subcontractors to any other third party.

2. Contractor acknowledges and agrees that it is providing institutional services or functions for CPS and that it is under direct control of CPS with respect to the use and maintenance of Data Files in connection with these Services. Contractor additionally acknowledges and agrees that at no point in time is the Contractor the owner of the Data Files. Ownership rights are maintained by CPS and CPS reserves the right to request the prompt return of any portion of the Data Files and/or all Data Files at any time for any reason whatsoever. Contractor further acknowledges and agrees that it shall adhere to the requirements set forth in both federal and state law regarding the use and disclosure of the Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information contained within the Data Files. Contractor also acknowledges and agrees that it shall not make any disclosure of any Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information contained in the Data Files, without the express written consent of CPS. Additionally, Contractor agrees that only authorized employees and subcontractors of the Contractor directly involved in delivering the Services may have access to the Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information contained in the Data Files and as such, that it, its employees, and if applicable, subcontractors shall protect the confidentiality of the Data Files or any portion thereof, including, any student data, meta data, user content or other non-public information and/or personally identifiable information contained in the Data Files pursuant to industry standards.

3. Contractor also acknowledges and agrees to:

- (i) use Data Files shared under this Agreement for no purpose other than in connection with and through the provision of the Services provided under this Agreement with CPS.
- (ii) use reasonable methods, including but not limited to, appropriate technical, physical and administrative safeguards, that reflects technology best practices and is consistent with industry standards, to protect the Data Files and/or any portion thereof from re-disclosure that is created, sent, received, stored, processed or transmitted in connection with the Services under this Agreement while the Data Files and/or any portion thereof contained therein is both at rest and in transit. Contractor further acknowledges and agrees to conduct periodic risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner.
- (iii) not share the Data Files and/or any portion thereof received under this Agreement with any other entity, other than subcontractors who are directly involved in providing the Services, without prior written approval from CPS and the prior written approval of the parent/guardian of the student or eligible student.
- (iv) not copy, reproduce or transmit the Data Files and/or any portion thereof, except as necessary to fulfill the Services.
- (v) not disclose, transfer or sell the Data Files and/or any portion thereof.
- (vi) not to use the Data Files and/or any portion thereof to market or otherwise advertise directly to students and/or their parents/guardians.
- (vii) not to use the Data Files and/or any portion thereof to inform, influence or guide marketing or advertising efforts or to develop a profile of a student or group of students for any commercial or other purposes.
- (viii) not to use the Data Files and/or any portion thereof contained therein for the development of commercial products or services, unless Data Files have been properly de-identified through the removal of all personally identifiable information, as permitted under FERPA, and only used for lawful purposes and solely for Contractor's internal quality assurance, research, and/or test development .
- (ix) not to mine the Data Files and/or any portion thereof for any purposes other than those agreed to by the parties in this Agreement and the Services Agreement. Contractor further acknowledges that data mining or scanning of user content for the purpose of advertising or marketing to students or their parents/guardians is expressly prohibited.
- (x) notify the Chief Information Officer for CPS in writing as soon as reasonable possible and in all cases within fifteen (15) days of its determination that it has experienced a data breach, breach of security, privacy incident or unauthorized acquisition or use of any Data Files and/or any portion thereof contained therein. Contractor agrees that said notification shall include, to the extent feasible, the date or approximate dates of such incident and the nature thereof, the specific scope of said breach (i.e., what data was accessed, used, released or otherwise breached, including the names of individual students that were affected by said breach) and what actions or steps with respect to the incident that Contractor plans to take or has taken in response to said breach. Additionally, Contractor agrees to adhere to all requirements in the Massachusetts Data Breach law and in federal law with respect to a data

breach related to the Data Files, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach. Contractor 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 Data Files or any portion thereof, including personally identifiable information and agrees to allow CPS, upon request, to review written incident response plan.

- (xi) not provide any Data Files or any portion thereof to any party ineligible to receive student records and/or student record data and information protected by FERPA and State Regulations or prohibited from receiving the Data Files or any portion thereof and/or any personally identifiable information from any entity under 34 CFR 99.31(a)(6)(iii).
- (xii) maintain backup copies, backed up at least daily, of Data Files in case of Contractor system failure or any other unforeseen event resulting in loss of Data Files or any portion thereof.
- (xiii) upon receipt of a request from CPS, promptly provide CPS with of the Data Files within fifteen (15) calendar days of receipt of said request.
- (xiv) upon receipt of a request from CPS, promptly begin the process of returning all Data Files over to CPS in a format agreed to by both parties, or if alternatively directed to do so by CPS, delete any Data Files, be it digital, archival or physical form, including without limitation any copies of the Data Files or any portions thereof that may reside in system backups, temporary files or other storage media and or are otherwise still in Contractor's possession and/or in the possession of any subcontractors, or agents to which the Contractor may have transferred Data Files or any portion thereof, in a manner consistent with technology best practices and industry standards for secure data disposal methods such that Contractor and/or any of its subcontractors or agents are no longer in possession of any Data Files belonging to CPS and to ensure that the Data Files cannot be recovered and are securely destroyed. In the event CPS directs Contractor to destroy the Data Files, and upon request, Contractor will provide CPS with written certification, including a listing of its Data Files destruction, within fifteen (15) days of its receipt of CPS request for confirmation of the destruction of Data Files.
- (xv) in the event of the Contractor's cessation of operations, promptly return all Data Files to CPS in an organized, manageable manner and subsequently erasing and/or otherwise destroying any Data Files, be it digital, archival or physical form, including without limitation any copies of the Data Files or any portions thereof that may reside in system backups, temporary files or other storage media and or are otherwise still in Contractor's possession and/or in the possession of any subcontractors, or agents to which the Contractor may have transferred Data Files or any portion thereof, in a manner consistent with technology best practice and industry standards for secure data disposal methods such that Contractor and/or any of its subcontractors or agents are no longer in possession of any Data Files belonging to CPS and to ensure that the Data Files cannot be recovered and are securely destroyed. Upon request, Contractor also will provide CPS with written certification, including a listing of

- its Data Files destruction, and a listing of all Data Files returned to CPS, within thirty (30) days of Contractor's cessation of operations.
- (xvi) not use, disclose, compile, transfer, sell the Data Files and/or any portion thereof to any third party or other entity other than Contractor's authorized agents and subcontractors, or allow any other third party or other entity to use, disclose, compile, transfer or sell the Data Files and/or any portion thereof.
 - (xvii) in the event that the Contractor and/or any of its subcontractors or agents to which the Contractor may have transferred Data Files or any portion thereof has technology or storage media that has failed and needs to be replaced or serviced, to ensure that all Data Files or any portions thereof that are contained therein are sanitized, deleted and/or otherwise destroyed. Upon request, Contractor also will provide CPS with written certification, including a listing of its Data Files destruction, within fifteen (15) days of any such occurrence.
 - (xviii) upon receipt of written direction by CPS, delete CPS Data Files that it collects or receives under the Services Agreement and this Agreement once the Services referenced in this Agreement are terminated or cancelled by CPS.
 - (xix) upon receipt of a litigation hold request from CPS, immediately implement a litigation hold and preserve all documents and data relevant identified by CPS and suspend deletion, overwriting, or any other possible destruction of documentation and data identified in, related to, arising out of and/or relevant to the litigation hold.
 - (xx) upon receipt of a request from CPS, allow CPS to review the non-proprietary security and privacy procedures that are in place to ensure protection of the Data Files or any portion thereof.
 - (xxi) cooperate fully with CPS and any local, state, or federal agency with oversight authority/jurisdiction in connection with any audit or investigation of the Contractor and/or delivery of Services to CPS, and shall provide access, as necessary, to Contractor's facilities, appropriate staff, CPS Data Files and all applicable logs or financial invoices pertaining to the Services Agreement between CPS and Contractor, . Failure to cooperate shall be deemed a material breach of the Contract.
 - (xxii) not assign, or transfer this Agreement without the prior written notification to CPS.
 - (xxiii) de-identified CPS Data Files is defined as data files that have all direct and indirect personal identifiers removed, including any data that could be analyzed and linked to other data to identify the student or the student's family members, including without limitation parents/guardians. This includes, , name, ID numbers, date of birth, demographic information, location data, and federal, state and/or local school identification numbers. Contractor also acknowledges and agrees not to attempt to re-identify de-identified CPS Data Files

4. Contractor certifies under the penalties of perjury that it complies with all federal and state laws, regulations and rules as such laws may apply to the receipt, storing, maintenance or access to personal information, including without limitation, all standards for the

protection of personal information of residents of Massachusetts and maintaining safeguards for personal information. Contractor hereby further certifies that it has a written comprehensive information security program that is in compliance with the applicable provisions of 201 C.M.R. 17.00 *et seq.* Further, the Contractor hereby certifies that it shall fully comply with the applicable provisions of the federal Family Educational Rights Privacy Act, 20 U.S.C. §1232g and regulations promulgated thereunder and applicable provisions of the Massachusetts student records law and regulations, including without limitation, 603 C.M.R. 23.00 *et seq.*, and to fully protect the confidentiality of any student data, meta data, user content or other non-public information and/or personally identifiable information provided to it or its representatives. Contractor further represents that it has reviewed and complied with all applicable industry standards regarding information security programs, plans, guidelines, standards and policies that apply to the work it will be performing, that it will communicate these provisions to and enforce them against its subcontractors and will implement and maintain any other reasonable and appropriate security procedures and practices necessary to protect personal information and/or student record information from unauthorized access, destruction, use, modification, disclosure or loss. Contractor also represents that if the Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information, is to be stored on a laptop or other mobile electronic device, that such electronic devices are encrypted and that all such devices will be scanned at the completion of the Services Agreement to ensure that no personal information and/or student record information is stored on such electronic devices. Furthermore, Contractor represents that it has purchased locks for all laptops and mobile electronic devices and has a protocol in place to ensure use by employees.

5. Contractor represents, and agrees that its t Services Agreement shall be amended as it relates to the Services as follows:

(i) Any provision contained in the Services Agreement regarding the City and/or CPS, as a user, to indemnify the Contractor are hereby deleted in their entirety.

(ii) Any provision in the Services Agreement that require that the City and/or CPS, as a user, to carry insurance coverage are hereby deleted in their entirety.

(iii) INTENTIONALLY OMITTED

(iv) INTENTIONALLY OMITTED

(v) INTENTIONALLY OMITTED

(vi) The laws of the Commonwealth of Massachusetts shall govern this Agreement and the Services Agreement, and the parties agree to be bound by the laws of the Commonwealth of Massachusetts in the resolution of any dispute concerning any of the terms and conditions of this Agreement and the Services Agreement, and consent to the jurisdiction of the United States Court for the District of Massachusetts and/or the trial courts of the Commonwealth of Massachusetts for any actions arising out of or related to this Agreement and the Services Agreement Any governing state law and/or choice of law provisions in the Services Agreement that are to the contrary to this provision, are hereby deleted in their entirety, with the exception that, foregoing choice of law notwithstanding, copyright, trademark, and patent claims are subject only to U.S. Federal law and U.S. Federal court interpretation thereof.

(vii) All rights to CPS's Data Files, including intellectual property rights, shall remain the exclusive property of CPS and/or the student, as applicable, and Contractor as a limited, nonexclusive license solely for the purpose of performing its obligations as outlined in this Agreement and the Services Agreement. This Agreement does not give the Contractor any rights, implied or otherwise, to Data Files or any portion thereof, content or intellectual property, except as expressly stated in this Agreement and the Services Agreement. This includes, without limitation, the right to sell or trade the Data Files or any portion thereof. Any provisions to the contrary in the Services Agreement are hereby deleted in their entirety.

6. The designated representative for the Contractor for this Agreement is:

Carl Covert, Jr, J.D.
VP of Intellectual Property and Contracts
Clinical Assessment
NCS Pearson, Inc.
19500 Bulverde Rd
San Antonio, TX 78259

and

The designated representative for CPS for this Agreement is:

Steve Smith
Chief Information Officer
Information, Communications & Technology Services
Cambridge Public Schools
459 Broadway
Cambridge, MA 02138

7. The Contractor agrees to hold harmless and indemnify the City of Cambridge and CPS for damages, reasonable costs and attorneys' fees which the City of Cambridge and/or CPS may incur as a result of claims, suits and judgments against the City of Cambridge and CPS to the extent such claims arise out of the negligent or willful acts or omissions of the Contractor, its employees, servants, representatives or agents during the term of this Agreement.

8. No delay or omission of CPS to exercise any right hereunder shall be construed as a waiver of any such right and CPS reserves the right to exercise any such right from time to time, as often as may be deemed expedient.

9. Contractor represents that it is authorized to bind to the terms of this Agreement, including confidentiality and destruction of Data Files and any portion thereof contained therein, all related or associated institutions, individuals, employees or contractors who may have access to the Data Files and/or any portion thereof, or may own, lease or control equipment or facilities of any kind where the Data Files and portion thereof stored, maintained or used in any way.

10. The terms and conditions of this Agreement may not be modified unless by such modifications are agreed to in a written document that is signed by both parties.

IN WITNESS WHEREOF, and in consideration of the mutual covenants set forth herein and for other good and valuable consideration, and intending to be legally bound, each party has caused this

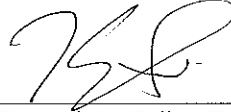
Agreement to be duly executed as a Massachusetts instrument under seal as of the day and year first written above.

NCS PEARSON, INC., through
its Clinical Assessment business

Michael Flynn
Michael Flynn (Mar 30, 2017)

Michael Flynn
VP of Planning and Operations,
Clinical Assessment,
NCS Pearson, Inc.
Title

CAMBRIDGE PUBLIC SCHOOLS



Kenneth N. Salim, Ed.D.
Superintendent of Schools