

# MADISON PUBLIC SCHOOLS

## STUDENT DATA PRIVACY ADDENDUM SPECIAL TERMS AND CONDITIONS

In compliance with Conn. Gen. Stat. §§ 10-234aa *et seq.*

ADDENDUM  
*Madison Public Schools*  
And

*Horizon Software International, LLC*

This Addendum (“Addendum”) is attached to and forms a part of the Software as a Service Agreement dated May 2, 2016 (the “Agreement”) and is entered into on this 4<sup>th</sup> day of May, 2018, between Madison Public Schools (the “Board”) and ***Horizon Software International, LLC*** (“Contractor”) (collectively, the “Parties”) for the purpose of identifying the obligations of the Parties relative to the confidentiality of student data.

### Article I. Definitions

For purposes of this Addendum, “directory information,” “de-identified student information,” “school purposes,” “student information,” “student records,” “student-generated content,” and “targeted advertising,” shall be as defined by Connecticut General Statute § 10-234aa. “Education records” and “personally-identifiable information” (“PII”) shall be defined by the Family Educational Rights and Privacy Act of 1974 (“FERPA”), codified at 20 U.S.C § 1232g (as amended); and its implementing regulations, 34 CFR 99.1 - 99.67 (as amended).

### Article II. Purpose of this Addendum

The Parties agree that the purpose of this Addendum is to detail the obligations of both Parties relative to the safety and confidentiality of student information, student records and student-generated content (collectively, “student data”), which student data may be provided to the Contractor in connection with Contractor’s provision of one or more of the following professional and non-instructional services (check those applicable):

- Medical consultation
- Special education consultation or audit
- Academic program consultation or audit (non-special education)
- Behavior intervention/Positive behavior intervention supports consultation or audit
- Information technology consultation or audit
- Student data storage, maintenance, collection and/or analysis
- Other (explain): \_\_\_\_\_

### **Article III. General Provisions**

- A. The Parties agree that this Addendum controls over any inconsistent terms or conditions contained within any other agreement entered into by the Parties concerning student data.
- B. Intentionally Omitted.
- C. All student data provided or accessed pursuant to this Addendum is and remains under the control of the Board. All student data are not the property of, or under the control of, the Contractor.
- D. The Board may request that the Contractor delete student data in the Contractor's possession by sending such request to the Contractor by electronic mail. The Contractor will delete the requested student data within three (3) business days of receiving such a request.
- E. The Contractor shall not use student data for any purposes other than those authorized in this Addendum, and may not use student data for any targeted advertising.
- F. If the Contractor receives a request to review student data in the Contractor's possession directly from a student, parent, or guardian, the Contractor agrees to refer that individual to the Board and to notify the Board within three (3) business days of receiving such a request. The Contractor agrees to work cooperatively with the Board to permit a student, parent, or guardian to review personally identifiable information in student data that has been shared with the Contractor, and correct any erroneous information therein.

### **Article IV. Security and Confidentiality of Student Data**

The Contractor and the Board shall ensure that they each comply with the FERPA. The Board hereby grants to the Contractor the right under and subject to the school official exception of FERPA (the "School Official Exception") to view student data and/or PII of the students of the Board. In consideration for the privilege of viewing, receiving and using student data and/or PII controlled by the Board, the Contractor agrees to the following:

1. To act as a school official of the Board in fulfilling its obligations under this Agreement. Specifically, under the School Official Exception, by fulfilling its obligations, the Contractor is performing a function that would otherwise be performed by a school official, is under the direct control of the Board with respect to the use and maintenance of any student data and/or PII and is subject to the requirements of FERPA.
2. To refrain from disclosing any student data or PII or data derived from such student data or PII to any third party unless there exists a data sharing and confidentiality agreement or other appropriate agreement including terms at least as restrictive as this Agreement

between the Contractor and such third party with respect to student data and PII; provided that, in any event, the Contractor shall be responsible for such third party's acts or omissions. The Contractor shall not share student data or PII with any entity without the express written consent from the Board.

Further, the Contractor shall take actions designed to ensure the security and confidentiality of student data, including but not limited to:

- A. Using technologies and methodologies consistent with the guidance issued in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, § 13402(h)(2), 42 U.S.C. § 17932;
- B. Maintaining technical safeguards relating to the possession of education records in a manner consistent with 45 C.F.R. 164.312;
- C. Otherwise meeting or exceeding industry standards relating to the safeguarding of confidential information.

#### **Article V. Prohibited Uses of Student Data**

- A. The Contractor shall not use student data for any purposes other than those authorized pursuant to this Addendum.
- B. The Contractor shall not retain, and the Board shall not otherwise make available, any student data upon completion of the contracted services unless a student, or parent or legal guardian of a student chooses to establish or maintain an electronic account with the Contractor for the purpose of storing student-generated content.
- C. During the entire effective period of this Addendum, the Board shall have control of any and all student data provided to or accessed by the Contractor. If a student, parent or guardian requests deletion of student data, the Contractor agrees to notify the Board immediately, but no later than three (3) business days after receiving such a request, and agrees to not delete such student data because it is controlled by the Board. The contractor shall destroy any and all student data within a reasonable period of time if the Board requests the deletion of such student data.
- D. The Contractor shall not collect, store, or use student data or persistent unique identifiers for purposes other than the furtherance of school purposes, as determined by the Board.
- E. The Contractor shall not sell, rent or trade student data. In the event the Contractor merges or is purchased by another entity, the Contractor must notify the Board in writing and receive written approval from the Board prior to providing for any purpose any student data covered under this Addendum to its successor.

#### **Article VI. Data Breaches**

- A. Upon the discovery by the Contractor of a breach of security that results in the

unauthorized release, disclosure, or acquisition of student data, or the suspicion that such a breach may have occurred, the Contractor shall provide initial notice to the Board as soon as possible, but not more than three (3) business days after such discovery (“Initial Notice”). The Initial Notice shall be delivered to the Board by Certified U.S. Mail addressed to the Superintendent of Schools, Madison Public Schools 10 Campus Drive Madison, CT 06443 and shall include the following information, to the extent known at the time of notification:

1. Date and time of the breach;
  2. Names of student(s) whose student data was released, disclosed or acquired;
  3. The nature and extent of the breach;
  4. The Contractor’s proposed plan to investigate and remediate the breach.
- B. Upon discovery by the Contractor of a breach, the Contractor shall conduct an investigation and restore the integrity of its data systems and, without unreasonable delay, but not later than thirty (30) days after discovery of the breach, shall provide the Board with a more detailed notice of the breach, including but not limited to the date and time of the breach; name(s) of the student(s) whose student data was released, disclosed or acquired; nature and extent of the breach; and measures taken to ensure that such a breach does not occur in the future.
- C. The Contractor agrees to cooperate with the Board with respect to investigation of the breach and to reimburse the Board for reasonable costs associated with responding to the breach, including but not limited to the costs relating to notifications as required by Conn. Gen. Stat. 10-234dd.
- D. Notwithstanding the breach notifications required in this Article, the Contractor shall provide the Board with a copy of the notification that it provides to a student or the parents or guardians of such student pursuant to Conn. Gen. Stat. 10-234dd(b). The copy of such notice shall be provided to the Board by electronic mail on the same date that it is provided to the student or parents or guardians of such student. The Parties agree that the following information shall be included in the Contractor’s notice of breach to a student or parent or guardian of a student:
1. Name of the student being notified whose student data was released, disclosed or acquired, which shall not include the names of other students;
  2. Date and time of the breach.

## **Article VII. Choice of Law, Choice of Forum, Merger, Severability**

- A. **Choice of Law.** The parties agree that this Addendum and any disputes arising from or relating to this Addendum, including its formation and validity, shall be governed by the laws of the State of Connecticut.
- B. **Choice of Forum.** The parties agree that any and all disputes arising from

or relating to this Addendum, including its formation and validity, shall be settled in the State of Connecticut.

- C. **Amendment.** This Addendum may be changed, amended, or superseded, only upon an agreement in writing executed by both parties hereto.
- D. **Severability.** A court finding of invalidity for any provision of this Addendum does not invalidate other provisions or applications that are not affected by the finding.

**Article VIII. Term**

The term of this Addendum shall be effective upon execution by both parties and shall terminate upon termination of the Agreement. Within fifteen (15) business days of the termination of the Agreement, Contractor shall return to the Board or destroy all student data that is in Contractor’s possession which Contractor created, received or maintained. When Contractor destroys the student data, it will do so in a manner which ensures that recovery of the student data would be impossible.

**Madison Public Schools**

**Horizon Software International, LLC**

By: \_\_\_\_\_  
Authorized Signature

By: \_\_\_\_\_  
Authorized Signature

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_