

**NOTICE OF CONTRACT EXECUTION**

**In compliance with P.A. 16-189, An Act Concerning Student Data Privacy**

**Date contract executed:** 12-16-16

**Brief description of contract and its purpose:** The purpose of this Agreement 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): \_\_\_\_\_

**Student information, student records or student-generated content that may be collected as a result of this contract:** Registration information, internship assignment, employment information, student projects

## STUDENT EMPLOYMENT SOFTWARE SERVICE AGREEMENT

This Student Employment Software Service Agreement (the "Agreement") is entered into as of December 2, 2016 (the "Effective Date") by and between Student Employment Software, LLC ("SESCO"), a company registered as a Limited Liability Company in the State of Connecticut with its principal office at 107 Maple Avenue, Greenwich, CT 06830, and the Darien Board of Education ("Client") at 35 Leroy Avenue, Darien CT 06820.

WHEREAS SESCO owns and maintains internet-based services (the "Service") used to support the activities of Organizations and Schools managing Experiential Learning Programs, including but not limited to Senior Internships, Student Projects, Service Learning and Employment programs;

WHEREAS, SESCO and Client agree to comply, and require subcontractors to comply, with the Family Educational Rights and Privacy Act (FERPA), as amended from time to time; and

WHEREAS Client operates one or more such activities and wishes make use of the Service to better fulfill the needs of students and staff for the payment amount and terms and conditions of the Agreement as described below:

### AGREEMENT

#### 1. SESCO SERVICE DEFINITION

a. SESCO has developed proprietary technology and software applications, which support the Client's Program (s) listed in Exhibit A ("Program"). The Service allows the Client to:

1) Store and maintain information about students, staff, employers, mentors, (collectively "Users"), education records and job/site opportunities in a relational database; 2) Access and edit this information using any computer with a commonly-used browser (Internet Explorer, Mozilla Firefox and Safari, collectively "Browsers") and an internet connection;

3). Produce lists and reports relating to students, experiential learning program participants and opportunities, and their current status;

4) Perform searches and match students with opportunities

5) Communicate program steps through e-mail with users throughout the program life cycle and other matters;

6) Grant access to Users to the Service and Program through individual "portals";

7) Download User information and other Data to a spreadsheet; Undertake various other functions in support of the above, such as updating of key dates and times (such as the hours the office is open) and processing of incoming e-mail communications.

## STUDENT EMPLOYMENT SOFTWARE SERVICE AGREEMENT

**b. Data collected and tracked by Service for Client includes:**

- **Student Registration.** At the time of registration, students provide various items of profile information including name, address, phone and mobile number, e-mail address, birthdate, gender, graduation class and high school. Additionally individual programs may include other optional or required information, such as guidance counselor, work experience, skills, interests, post-high school plans etc.
- **Employer/Internship Site Registration.** Employers and Internship sites are required to provide their name, type of organization (individual, business, and municipal/not-for-profit), address, phone number, e-mail address, name of primary contact. Additionally individual programs may include other optional or required information, such as business type, interests, etc. Subsequently, Employers/Internship Sites may also provide information about jobs/internships which might include descriptions, hours, compensation, required skills etc.
- **Staff/Faculty Registration.** Staff and Faculty accounts must be created by program staff, and include Name, title, phone and e-mail information.
- **Through the use of the Service, additional information is collected as needed to provide the functionality of the program.** For example, logins, incoming and outgoing e-mails, jobs/internships requested by students, internship assignments etc. are all tracked by the system and stored in the database. SESCO also logs changes to client data. All of this information is available to the client as part of the program.
- **SESCO does use session variables to allow persistent user connections to the Service, i.e. use of the service without needing to provide username and password with each request.** The information tracked includes the system user id, user type (e.g. student, site/employer, staff), time of last activity etc. This information is erased once a user's session expires.
- **If a client uses SESCO's electronic document feature, SESCO tracks the IP address a user was using when a document was agreed to.**
- **All of the data collected by SESCO, whether entered or generated by users or collected by the system is used only for the purposes of supporting the Client's program and is not used in any other way by SESCO other than in aggregate statistics (e.g. "About 40% of internships in an average program are self-designed", or "Approximately 40% of jobs posted are by homeowners").**
- **SESCO does not use cookies to track or store user activity.**

**c. For purposes of this Agreement, Data shall include all electronic information provided by Client to SESCO concerning or relating to students, staff, employers, mentors, and**

## STUDENT EMPLOYMENT SOFTWARE SERVICE AGREEMENT

includes personally identifiable information (“PII”) education records, job/site opportunities, metadata and user content. This Agreement includes by reference a Student Data Privacy Addendum, in accordance with Connecticut Public Act 16-189.

### 2. TRAINING

SESCO will provide to Client initial training in the use of the Service as follows:

- a. SESO will provide one Administrator Training session to take place online or at a mutually acceptable location with access to the internet.
- b. The training session will be scheduled at a time jointly acceptable to SESO and Client;

### 3. SUPPORT

In addition to the training described above, SESO will endeavor to answer any questions regarding the Service in a timely manner. Questions should be submitted to SESO on-line or through the methods described in Exhibit B within.

### 4. TERM

The term of this Agreement (the “Term”) shall commence upon Execution of this Agreement and continue in full force and effect for the time period and renewal period indicated in Exhibit A. This Agreement and all its terms and conditions may be renewed on an annual basis at the Client’s option.

### 5. ADDITIONAL SERVICES

Client may add additional Service Programs provided by SESO to this Agreement through an amendment in writing to Exhibit A provided the terms and conditions and additional fees are mutually acceptable to both SESO and the Client.

### 6. FEES

Client agrees to pay to SESO an annual fee for use of the Service (the “Fee”) and an initial set up fee in the amounts set forth in Exhibit A within. SESO will notify Client of any annual Fee increases with six months’ notice prior to the renewal period.

### 7. OTHER REIMBURSABLE EXPENSES

Client agrees to pay for any annual fees related to domain name(s) contracted on their behalf by SESO at the SESO’s cost and the amount shall be agreed-to in writing by the parties in advance of execution of this Agreement. Payment for domain names shall be on an annual basis and included in the renewal notice and invoice 30 days in advance for the annual contract renewal date.

# STUDENT EMPLOYMENT SOFTWARE SERVICE AGREEMENT

## 8. PAYMENT

Payment shall be made for the Service each year as follows:

- a. Payments should be made to SESCO in a form set forth in Exhibit A within.
- b. Payment for the 2016-2017 school year service and activation is due upon signing this Agreement, and by October 1st for each year or within 30 days of billing for each year the contract is renewed.
- c. SESCO has the right to deny access to the Service by the Client at its discretion if payment is not received within 60 days after the date payment was due.
- d. Should SESCO continue to provide service after the billing date in the case where payment has not been received, SESCO retains the right to deny access at any time afterwards solely at its discretion until payment is received.

## 9. CUSTOMIZATION

If there are features or functions desired by the Client which are not available in the Service, SESCO will undertake to provide them to Client, either as part of SESCO's on-going development of the Service or at additional cost to Client. In the latter case, SESCO will quote to Client a firm price for development of the feature or functionality to Client before proceeding. During the free trial period of any enhancement, new features or functions, Client agrees to accept the Service on a "as is basis".

## 10. INTERNET ACCESS

Client has sole responsibility to obtain and maintain access to the internet. SESCO takes no responsibility for Client's access to the internet, the configuration of Client's firewall and internet security systems or the availability of internet access in general. If SESCO can access Client's Service from its own computers, the Service will be deemed to be operating by the terms of this Agreement.

## 11. DATA BACKUP AND SECURITY

SESCO will maintain a complete copy of Client's Data in a location other than the server where the database is hosted. A copy of Client's database will be made each night and retained for at least seven days. At Client's request, SESCO will replace the current Data in the database with any available earlier copy. SESCO will store and process Data in accordance with industry best practices. This includes appropriate administrative, physical, and technical safeguards to secure Data from unauthorized access, disclosure, and use. SESCO will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. SESCO will also have a written incident response plan, to include immediate notification to the Client in the event of a security or privacy incident, which shall be defined as any unauthorized access, disclosure and/or use of Data

## STUDENT EMPLOYMENT SOFTWARE SERVICE AGREEMENT

by any SESCO employee, contractor or subcontractor. The incident response plan will also include best practices for responding to a breach of Data and/or PII.

### 12. SERVICE AVAILABILITY

SESCO will endeavor to ensure the Service is available to Client "24/7". The Service is deemed to be available if SESCO can access the Service and shall not be dependent upon Client's ability to access the internet from their location(s). The Service is hosted on server(s) located in a professional hosting company with surveillance, security, fire protection, back-up power supplies and 24/7 monitoring.

- a. In the event that the server hosting Client's Service fails, Service will be restored as soon as possible using Data from the previous backup if the Data in the system at the time of the crash cannot be used or recovered;
- b. In the unlikely event of a catastrophic hosting facility failure, Service will be restored as soon as possible using Data from the previous backup if the Data in the system at the time of the crash cannot be used or recovered;
- c. If Client experiences a Service outage, Client should contact SESCO immediately.

### 13. SERVICE OWNERSHIP/LIMITATIONS ON USE

- a. Subject to the terms and conditions of this Agreement, Client will have the right to use the Service. SESCO shall at all times have sole and exclusive ownership of all right, title and interest in and to such Service, any enhancements thereto and in any materials and data SESCO provides to the Client.
- b. Notwithstanding anything contained elsewhere in this Agreement, the parties acknowledge that SESCO owns the domain name www.hs-ses.com and that this ownership shall survive the termination of this Agreement. Client shall own the rights to any domain name already owned by Client or purchased on behalf of Client by SESCO. Client may not copy, modify, alter, sell, distribute or sublicense the Service or reverse assemble, reverse compile or otherwise attempt by any other method to create or derive the source programs, nor authorize or contract with third parties to do the same.

### 14. DATA RIGHTS AND USE

- a. All Data SESCO collects and stores in managing and delivering the Service for the Client which specifically pertain to the Client or its Users (collectively the "Data"), shall be owned by and are proprietary and confidential to the Client.
- b. SESCO will only collect Data necessary to fulfill its duties as outlined in this Agreement.

## STUDENT EMPLOYMENT SOFTWARE SERVICE AGREEMENT

- c. SESCO will use Data only for the purpose of fulfilling its duties and providing Service under this Agreement, and for improving Service.
- d. SESCO may use de-identified Data for product Development or research. De-identified Data will have all direct and indirect personal identifiers removed. This includes but is not limited to, name, id numbers, date of birth, demographic information and school ID. SESCO agrees not to attempt to re-identify de-identified Data to any party unless that party agrees not to attempt re-identification.
- e. SESCO may use Client numerically aggregated Data for reporting, service related surveys, or marketing purposes provided such Data is not specifically identifiable to any individual Client User.
- g. SESCO will not use any Data to advertise to students. Advertising and marketing may be directed to the Client only if student information is properly de-identified.
- h. SESCO is prohibited from mining Data for any purposes other than those agreed to by the parties. Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited.
- i. SESCO will not change how Data are collected, used, or shared under this Agreement in any way without advance notice to and consent from the Client.

### 15. CONFIDENTIALITY

- a. SESCO passwords and links providing access to the Service, text from or electronic images of the Service, Service functionality, Service information, and the Service documentation, whether on-line or in printed form, are confidential and proprietary to SESCO.
- b. Client Data provided by Client or Client Users is proprietary and confidential to Client and shall be considered Confidential Information. Such Confidential Information shall not be used, disclosed or reproduced by SESCO or any the other party without the consent of the party providing said information, except for any information, data or material which: (a) at the time of disclosure to the receiving party was known or in the possession of the receiving party; (b) is independently developed by the receiving party; (c) is generally available to the public without any breach of this Agreement; (d) represents numerical reporting data as described above in Section 14.
- c. Client understands that SESCO may rely on one or more subcontractors to provide Service under this Agreement. SESCO shall provide the names of these subcontractors, if any, to Client on or before the Effective Date of this Agreement. All subcontractors and successor entities of SESCO will be subject to the terms of this Agreement.

# STUDENT EMPLOYMENT SOFTWARE SERVICE AGREEMENT

## 16. FERPA

SESCO and the Client agree to comply with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(a)(4)(A)(ii), 1232g(b)(1) -- for purposes of this Agreement. SESCO may use student education records to provide the Service including, but not limited to, longitudinal studies, alignment studies, and norming studies for the benefit of Client. PII derived from education records provided to SESCO may be disclosed only to Client Users who have a legitimate educational interest in maintaining, organizing, or analyzing the data for uses authorized in this Agreement. PII derived from education records and maintained by Client shall not be further disclosed by SESCO except as allowed by FERPA. Client is responsible for any notices to parents required under FERPA and for providing parents/guardians the opportunity to inspect and request amendment to student education records, in accordance with FERPA.

## 17. INDEMNIFICATION

a. CLIENT. Subject to subsection (b), Client shall indemnify and hold harmless SESCO from any third party claims and liabilities arising out of or relating to use of the Service pursuant to this Agreement, including, without limitation, equal opportunity, applicable working rules for minors, content, libel, invasion of privacy, and rights of publicity, other than intentional, willful, malicious acts, provided: (i) SESCO promptly notifies Client of such claims; (ii) Client has sole control of the defense and settlement of such claims and is not responsible for any settlement that it does not approve in writing; and (iii) SESCO renders all assistance required.

b. SESCO. SESCO shall indemnify and hold harmless Client from any third party claims and liabilities arising out of or relating to Client's use of the Service pursuant to this Agreement, other than intentional, willful, malicious acts, provided that: (i) Client promptly notifies SESCO of such claims; (ii) SESCO has sole control of the defense and settlement of such claims and is not responsible for any settlement that it does not approve in writing; and (iii) Client renders all assistance required. If an injunction is entered against Client's use of the Service, SESCO will, at its option, (A) obtain a license permitting such use, (B) modify the Service to avoid the infringement, or (C) if it cannot reasonably do either of the foregoing, terminate Client's access to the Service and to this Agreement and reimburse Client on a pro rata basis for the unused portion of the annual Service plan period.

## 18. WARRANTY

Client warrants that it is free to enter into this Agreement and that this Agreement constitutes the valid and binding obligation of Client, enforceable in accordance with its terms. SESCO warrants that it is free to enter into and perform this Agreement and, except for events beyond SESCO's control, including but not limited to Internet service disruptions or access outages and other events of force majeure.

a. The SESCO Service will conform in all material respects to the functionality described in Section 1.



## STUDENT EMPLOYMENT SOFTWARE SERVICE AGREEMENT

b. SESCO, to the best of its knowledge, owns, or has the right to use all software components of the SESCO Service, and will endeavor not to infringe on any United States federal or state intellectual property rights of any third party.

### 19. TERMINATION

The Term of this Agreement is as described in Section 4.

a. Either party may terminate this Agreement in the event that the other party ceases to do business or exist, or undergoes a bankruptcy or insolvency proceeding, or an assignment for the benefit of creditors.

b. Upon the expiration or termination of this Agreement for any reason, SESCO will ensure that all Client Data in its possession and in the possession of any subcontractors, or agents to which SESCO may have transferred Data, are destroyed or transferred to the Client under the direction of the Client when the Data are no longer needed for their specified purpose, at the request of the Client.

c. All payment obligations of the Client shall survive expiration or termination of the Agreement, as shall the parties' rights and obligations under Sections 13 through 18, unless SESCO ceases to exist as a legal entity.

### 20. ASSIGNMENT

All the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and to their respective heirs, successors, assigns and legal representatives. This Agreement is not assignable or transferable by either party without the prior written consent of the other party, except that SESCO reserves the right to assign the Agreement (a) by operation of law, or (b) to any entity acquiring or assuming substantially all of assignor's assets.

### 21. DISPUTE RESOLUTION

Any controversy or claim arising out of or relating to this Agreement, or the breach hereof, shall be settled exclusively by arbitration, and neither party shall under any circumstance cease performance of its obligations under the Agreement notwithstanding any alleged breach by the other. Such arbitration shall be conducted before a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The arbitration shall take place at SESCO's place of business or at Client's offices by mutual agreement. Judgment may be entered on the arbitrator's award in any court having jurisdiction, and the parties irrevocably consent to the jurisdiction of Connecticut courts for that purpose. The parties waive personal service in connection with any such arbitration; any process or other papers under this provision may be served outside the relevant states by registered mail, return receipt requested, or by personal service, provided a reasonable time for appearance or response is allowed. The decision of

## STUDENT EMPLOYMENT SOFTWARE SERVICE AGREEMENT

the arbitrator shall be final and binding on the parties. The parties shall equally divide all costs of the American Arbitration Association and the arbitrator. Each party shall bear its own legal fees in any dispute. The arbitrator may grant injunctive or other relief.

### 22. ATTACHMENTS

The attachments referenced above are incorporated herein by reference. References herein to "Agreement" shall include the Agreement and its Attachments, Exhibits and Schedules.

### 23. GOVERNING LAW

This Agreement shall be governed by and in accordance with the laws of the State of Connecticut.

### 24. SEVERABILITY

If any provision of this Agreement is held to be invalid under any applicable statute or rule of law, it shall be, to that extent, deemed omitted, and shall not affect the remaining provisions and portions of this Agreement.

### 25. NO WAIVER

The waiver of any particular breach or default or any delay in exercising any rights shall not constitute a waiver of any subsequent breach or default or effect any other right or remedy. Unless otherwise provided herein, all rights and remedies hereunder are cumulative and are not exclusive of any other rights or remedies provided hereunder or by law.

### 26. NOTICES

All notices required or permitted hereunder shall be given in writing addressed to the respective parties as set forth below in Exhibit B and shall either be (i) personally delivered, (ii) transmitted by postage prepaid certified mail, return receipt requested, or (iii) transmitted by nationally-recognized private express courier. The effective date of such Notice shall be deemed to be the date upon which any such Notice is personally received by the addressee. Either party may change its address for purposes hereof by written notice to the other in accordance with the terms of this Section.

### 27. FORCE MAJEURE

Neither party will be responsible for any failure or delay in performance of its obligations under this Agreement due to circumstances beyond its reasonable control, including, without limitation, acts of God, war, cyber-attacks, terrorism, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, service outages resulting from equipment and/or software failure and/or telecommunications failures, power failures, network

## STUDENT EMPLOYMENT SOFTWARE SERVICE AGREEMENT

failures, failures of third party service providers (including providers of Internet Services and telecommunications). The party affected by any such event shall notify the other party within a maximum period of fifteen (15) days from its occurrence. The performance of this Agreement shall then be suspended for as long as any such event shall prevent the affected party from performing its obligations under this Agreement

IN WITNESS THEREOF, the parties have hereto set their hands upon and signatures to the Agreement, on the dates here written:

For Student Employment Software LLC  
Katharine L. Hohorst  
CEO

Date: *Kate Hohorst*

Date: 12-2-2016

For Darien Board of Education

By: *Michael C. Jerry*

By: 12-3-2016

Exhibit A