

EATON BOARD OF EDUCATION SPECIAL MEETING
Eaton Board of Education Office
306 Eaton Lewisburg Rd. – Eaton, Ohio 45320
June 28, 2023
2:00 p.m.

I. Opening of the Meeting

A. Call to Order – President

B. Roll Call – President

E. Beeghly Absent B. Deacon Present B. Myers Present L. Noble Present
T. Parks Present

C. Pledge of Allegiance- President Noble led the Pledge of Allegiance.

II. Treasurer's Business

ADOPTION OF CONSENT AGENDA ITEM - FINANCIAL

Action by the Board of Education in "Adoption of Consent Agenda Item" at this point of the agenda means that item A is adopted by one single motion unless a member of the Board, the Superintendent, or the Treasurer requests that any such item be removed from the "Consent Agenda Items" and voted on separately.

A. The Treasurer recommends approval of the following:

1. Approve Final appropriations for FY23.
2. Approve Permanent appropriations for FY24.
3. Approve the agreement with Donald J. Schonhardt & Associates, Inc. for OCBOA financial statement preparation (Attachment A).
4. Approve advance of \$124,434.61 from 001-0000 General Fund to 507-9222 ARP ESSER III.
5. Approve advance of \$43,004.08 from 001-0000 General Fund to 507-9321 ESSER II.

Motion by Bryan Deacon , second by Ben Myers , to approve agenda item II.A.

Discussion- Mrs. Noble asked when the ESSER funds expire. Mrs. Tait said ESSER II Expires September 30, 2023 and ESSER III expires September 30, 2024.

Beeghly Deacon Y Myers Y Noble Y Parks Y

President declares motion passed .

#2223-89

III. New Business

ADOPTION OF CONSENT AGENDA ITEMS - PERSONNEL

Action by the Board of Education in “Adoption of Consent Agenda Items” at this point of the agenda means that items A through B are adopted by one single motion unless a member of the Board, the Superintendent, or the Treasurer requests that any such item be removed from the “Consent Agenda Items” and voted on separately.

A. Employment – Non Certificated Substitutes

The Administration recommends the employment of the following personnel effective the day after Board approval unless otherwise noted. Employment contingent upon certification (if necessary), criminal record check, and all other state and local requirements. Salary and duties per Board Policy, and Administrative Rules and Regulations with no fringe benefits.

1. Joshua Decker, Substitute Custodian
2. Olivia Campbell, Substitute Custodian

B. Employment – Classified Staff

The Administration recommends the employment of the following personnel as a Sub Bus Driver in Training effective the day after Board approval unless otherwise noted. Employment contingent upon certification (where applicable), criminal background check, and all other state and local requirements. Salary and reimbursement per the Bus Driver Incentive Resolution.

1. Joshua Decker

Motion by Ben Myers, second by Terry Parks

Discussion- None.

Beeghly _____ Deacon Y Myers Y Noble Y Parks Y

President declares motion passed.

#2223-90

ADOPTION OF CONSENT AGENDA ITEMS – ADMINISTRATIVE

Action by the Board of Education in “Adoption of Consent Agenda Items” at this point of the agenda means that items C through E are adopted by one single motion unless a member of the Board, the Superintendent, or the Treasurer requests that any such item be removed from the “Consent Agenda Items” and voted on separately.

C. Authorize School Bus Bids

The Administration recommends authorization for the Southwestern Ohio Educational Purchasing Council (EPC) to advertise and receive bids on behalf of the Board of Education for school buses with selected options, according to specifications submitted for the cooperative purchase of any bus during the 2023-2024 school year.

D. Agreement with LEARN21

The Administration recommends approval of the agreement with LEARN21: A Flexible Learning Collaborative, (Attachment B).

E. Agreements with Montgomery County Educational Service Center

The Administration recommends the approval of (2) two service agreements for the 2023-2024 school year for services from the Montgomery County Educational Service Center.

1. Gifted Supervision Services, effective July 1, 2023 through June 30, 2024, (Attachment C).
2. Literacy Supervision Services, effective July 1, 2023 through June 30, 2024, (Attachment D).

Motion by Bryan Deacon, seconded by Ben Myers

Discussion- Mrs. Noble inquired about Learn21. Mr. Parker said this will help the Tech Department with monitoring inventory.

Beeghly _____ Deacon Y Myers Y Noble Y Parks Y

President declares motion passed.

#2223-91

F. Executive Session

To discuss confidential student information required to be kept confidential under State law in accordance with R.C. § 149.43 (G)

The following individuals are invited to attend: Jeff Parker, Rachel Tait, Aaron Horton

Motion by Terry Parks, second by Bryan Deacon to convene executive session.

Beeghly _____ Deacon Y Myers Y Noble Y Parks Y

President declares motion passed.

#2223-92

President convenes executive session at 2:06 p.m.

President resumes open session at 2:45 p.m.

IV. Adjournment

Motion by Terry Parks, seconded by Bryan Deacon to adjourn the meeting.

Discussion- None.

Beeghly _____ Deacon Y Myers Y Noble Y Parks Y

President declares motion passed.

#2223-93

President adjourns meeting at 2:46 p.m.

DATE: _____

PRESIDENT: _____ TREASURER: _____

Upcoming Meetings

Meeting: Regular Board Meeting
Date/Time: Monday, July 17, 2023 6:00 p.m.
Location: East Elementary School

Meeting: Special Board Meeting
Date/Time: Tuesday, July 25, 2023 2:00 p.m.
Location: Eaton Board Office

CONTRACT
for
MANAGEMENT CONSULTING SERVICES

This Contract is made and entered into this 28th day of June, 2023, by and between Donald J. Schonhardt & Associates, Inc., 5307 Franklin Street, Hilliard, Ohio 43026-1409, hereinafter referred to as the "Consultant" and the Board of Education, Eaton Community Schools, 304 Eaton Lewisburg Rd., Eaton, Ohio 45320 acting through the Treasurer, hereinafter referred to as the "Board".

Whereas, the Consultant provides assistance to public entities in the development of improved accounting and financial management information systems; and

Whereas, the Board desires to retain the Consultant to provide assistance in the preparation of the 2023 Fiscal Year annual financial report prepared on a cash basis – Other Comprehensive Basis of Accounting (OCBOA); and

Whereas, the Board has reviewed the services to be provided by the Consultant and has authorized the services identified in the proposal to the Board, dated June 7, 2023, which is attached hereto as Appendix I and is hereby made a part of this Contract, as if fully rewritten herein.

Now, Therefore, in consideration of the mutual covenants and obligations contained herein, the parties hereto agree as follows:

Scope of Services (Section I)

The Consultant shall provide accounting and financial management consulting services to the Board in accordance with the Proposal to the Board developed by the Consultant and dated June 7, 2023, a copy of which is attached hereto as Appendix I and incorporated by reference into this Contract as if fully rewritten herein.

The Board acknowledges through acceptance of this section that the contract may cover a multi-year term as specified by the number of years designated below. Each OCBOA report prepared under the terms of a multi-year contract will be prepared according to the scope of services outlined in this contract at the hourly rates and maximum contract amounts specified in Appendix I.

<u>3</u>		
# of years	Signature	Title

Term of Agreement (Section II)

The term of this Contract shall begin upon the signing of the contract document by authorized agents of the parties to the Contract and shall remain in force until the work identified in Appendix I is completed by the Consultant or the Contract is cancelled by either party according to the terms of Section IV of this Contract titled "Termination".

Compensation (Section III)

Fee: Board agrees to pay to the Consultant an hourly rate (including travel time) plus mileage for management consulting services. The total amount billed for management consulting under the defined scope of services shall not exceed the amounts specified in Appendix I for each report year as designated in Section I (excluding an allowance for mileage reimbursement).

Termination (Section IV)

The Client shall furnish the Consultant with written notice of the Consultant's alleged breach of this Agreement. The Consultant shall have thirty (30) days after the Consultant's receipt of such notice to cure such breach and, if timely cured, this Agreement shall not terminate but continue in full force and effect. If the Consultant fails to cure such alleged breach, the Client may terminate this Agreement by furnishing to the Consultant written intent to terminate and the Consultant shall have no further right to cure. Termination under this provision shall not relieve the Client any payment obligations under this Agreement. Payment in full of all outstanding invoices for work rendered by Donald J. Schonhardt & Associates, Inc., shall be made on or prior to the termination date.

Limitation of Liability - Breach of Contract (Section V)

The Board agrees that regardless of the form of action, Donald J. Schonhardt & Associates, Inc. liability for damages shall not exceed the total amounts paid to Donald J. Schonhardt & Associates, Inc. under the terms of this Contract. This shall be the Board's exclusive remedy. No action, regardless of form, arising out of a claim of breach of this Contract may be brought by either party more than one year after the date of the alleged breach.

General Provisions (Section VI)

This Contract shall be governed by the laws of the State of Ohio.

This Contract contains the complete and exclusive statement of the agreement between the parties and supersedes all prior discussions, proposals, oral or written, and all other communications between the parties relating to the subject matter of this Contract.

No amendment to this Contract shall be effective unless it is in writing and signed by duly authorized representatives of both parties.

All notices hereunder shall be in writing and shall be deemed to have been given when mailed by certified mail, return receipt requested to the address of the parties first written above or by delivering in person to either party.

This Contract may be executed in one (1) or more copies, each of which shall be deemed an original.

General Provisions (Section VI) (Continued)

Each party has the power and authority to enter into and perform this Contract and the person signing this Contract on behalf of each party has been properly authorized and empowered to enter into this Contract. Each party further acknowledges that it has read this Contract, understands it and agrees to be bound by it.

If any provision of this Contract is determined to be invalid or unenforceable, the remaining provisions of this Contract shall not be affected thereby and shall continue to be binding upon the parties and shall be enforceable as though the invalid or unenforceable provisions were not contained herein.

No term or provision shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claiming to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to or waiver of or excuse for any other different or subsequent breach.

In witness whereof, the parties hereto have executed this Contract on the date and place first indicated above.

Board of Education
Eaton Community Schools
304 Eaton Lewisburg Rd.
Eaton, Ohio 45320

By: _____
Title: _____
Date: _____

Donald J. Schonhardt & Associates, Inc.
5307 Franklin Street
Hilliard, Ohio 43026-1409

P.O. # _____

By: Roy O. Porter
Roy O. Porter, CPA
Executive Vice President
Date: 6/7/23

Appendix I

***PROPOSAL TO THE
EATON COMMUNITY SCHOOL DISTRICT, OHIO***

for

***CONSULTING SERVICES
for
ASSISTANCE IN THE PREPARATION
of
OCBOA FINANCIAL STATEMENTS***

Prepared by
Donald J. Schonhardt & Associates, Inc.
5307 Franklin Street
Hilliard, Ohio 43026-1409
(614) 876-2020

June 7, 2023

EXECUTIVE SUMMARY

Overview

Ms. Rachel Tait, Treasurer of the Eaton Community School District, is currently in the process of planning for the preparation of the District's 2023 annual financial report presented on the cash basis (Other Comprehensive Basis of Accounting – OCBOA) of accounting. She has requested that we prepare a proposal to provide technical accounting and management oversight assistance in the preparation of a 2023 annual financial report.

Since our primary service to the public sector is the preparation of annual financial reports, we have made a commitment to continuing education for all of our staff members. We participate in Government Finance Officers Association (GFOA) and Association of Government Accountants (AGA) sponsored seminars to insure that our staff is knowledgeable about all current and proposed governmental financial reporting requirements. Because we work with over eighty (80) different public sector entities to prepare financial reports, our staff is exposed to a variety of methods which may be used by District staff to improve the efficiency of the report preparation process. We have not wavered from our commitment to provide the highest quality public sector financial and accounting services at a reasonable cost.

We believe that Donald J. Schonhardt & Associates, Inc. (DJS&A) is in a unique position to meet the District's request for assistance because of our hands-on experience in public sector finance and our continuing assistance to other School Districts throughout Ohio. The individuals who will assist the District have in excess of seventy (70) years of public sector finance and accounting experience and continue to work with over eighty (80) public sector entities (municipalities, counties, villages, townships, special districts and school districts) throughout the State of Ohio to prepare cash basis and GAAP basis (GASB 34 compliant) annual financial reports.

We recognize the significance of our continued association with the Eaton Community School District and are prepared to commit the necessary resources to assure the highest level of service.

Timing

The District will be required to submit their 2023 financial statements to the Auditor of State by August 30, 2023 to meet statutory requirements. We are prepared to begin work in July and anticipate completion of the financial statements by the filing deadline.

This proposal includes DJS&A time to review proposed audit adjustments and make mutually agreed upon material audit adjustments (if any), but **does not** include time to cover continual meetings with the auditors throughout the audit process or time to make immaterial, nonsubstantive changes to the narrative or format of the report. We have also included additional time necessary to put the financial statements into a PDF file format so that our clients may comply with the State Auditor's electronic filing requirement.

Engagement Approach

Donald J. Schonhardt & Associates, Inc., will be responsible for providing on-going management and technical accounting assistance on a regular basis throughout the report preparation process. Such assistance will include but is not limited to the following:

- Regular discussions with District staff to review completed documentation, discuss data collection and recording criteria and examine the status of the report preparation process.
- Answer questions as they arise and discuss the rationale for specific data collection activities and how they can be accomplished most efficiently.

The additional work required for development of GAAP Basis financial statements is **NOT** included as part of this proposal.

Professional Fees

It is our policy to estimate fees at an amount which is highly competitive, but which will enable us to provide responsive service of the highest quality. We base our fees on the time spent by personnel assigned to an engagement at hourly rates which are commensurate with the training and experience of those assigned to the project. We know that our hourly rates are extremely competitive and substantially less than those charged by other accounting and consulting firms that may not possess the actual hands-on experience of our staff. Management oversight and technical assistance will be billed at an hourly rate of \$110.00 per hour (including expenses) for work performed **plus** travel time and mileage at the rate of \$0.65 per mile.

In order to contain costs and pass the savings on to our clients, we are prepared to offer the same level of services identified in this proposal for preparation of a 2024 and 2025 OCBOA report at the same annual fee quoted for the 2023 OCBOA preparation. We will freeze this rate and annual contract amount with the signing of a multi-year contract not to exceed three (3) consecutive report years. This fixed rate is contingent upon the District's agreement that the scope of work will remain the same for this and the subsequent years and that no significant change in accounting policies and/or procedures is anticipated which will potentially alter the required level of service. We are confident that you will agree that such cost containment measures provide both current and long-term benefits to the District.

The multi-year contract option is included on the contract document and requires an appropriate approval signature on the line provided which will designate the term of the contract. We hope that you are able to take advantage of this opportunity so that we may continue to provide you with the highest quality of service at the best possible price.

ATTACHMENT A

Our fee to provide management and technical oversight in the report preparation, as outlined in the Summary of Work to be Performed (**excluding an allowance for mileage reimbursement**) will be:

<u>Report Year</u>	<u>Report Fee</u>
2023	\$6,000
2024	6,000
2025	6,000

The maximum amount that will be billed to the Eaton Community School District for hours worked on the project is as noted in the table above (**excluding an allowance for mileage reimbursement**). The hourly rate quoted above will not increase during the term of the contract. The proposal is a maximum not to exceed bid for the scope of services defined by this proposal, the District will not pay more than the amount noted above provided the scope of services does not change.

Billing

Our practice is to bill in monthly installments covering the period worked on the engagement. Billings are due and payable upon receipt.

SUMMARY OF WORK TO BE PERFORMED

The objective of this engagement is to provide management, technical and accounting assistance, to the Eaton Community School District in the preparation of their 2023 annual financial report. It is anticipated that the engagement will be completed by August 30, 2023. The engagement consists of the following:

Management overview, technical assistance, documentation and preparation of one copy of the original financial statements which are suitable for preparing additional copies as required by the District.

An outline is provided below which indicates the major components of the project. The outline is not intended as a comprehensive work plan, but rather an overview of the services to be provided.

- Obtain prior year cash basis financial statements in order to determine the correct classification of revenues and expenditures.
- Obtain year end cash basis fund reports (year to date revenues, expenditures and fund balances).
- Obtain original and final budget amounts for major funds.
- Identify and eliminate appropriate interfund activity.
- Make final determination of major funds.
- Identify program revenues.
- Collect information to categorize net position.
- Prepare reconciliation between government-wide financial statements and fund based financial statements (if necessary).
- Prepare statement formats for all required financial information including all financial statements, including notes thereto, and required supplementary information.
- Assist in the preparation of Management's Discussion and Analysis (MD&A).
- Provide draft copy of financial statements along with supporting workpapers to the District's auditors.
- Make mutually agreed upon changes/corrections to the financial section as a result of the audit.
- Provide the OCBOA report to the District as a PDF file for submission to the Auditor of State to meet electronic filing report requirements.

OPERATING SERVICES LICENSE AGREEMENT

This License Agreement ("Agreement") is entered into as of the 29 day of June, 2023 ("Effective Date") by and between LEARN21: A Flexible Learning Collaborative, an Ohio non-profit corporation, ("LEARN21") and Eaton Community Schools ("Licensee"), a Public School whose principal place of business address is 306 Eaton Lewisburg Road, Eaton, OH 45320, for access to and use of certain Operating Services made available by Learn21, subject to and bound by the terms and conditions of this Agreement, as set forth herein:

1.0 Definitions.

- 1.1 "Licensee" shall mean Eaton Community Schools and, as to all obligations and limitations contained herein, shall include its employees, managers, directors, officers, employees and agents, acting under Licensee's direction and control or on behalf of Licensee, for whom Licensee takes responsibility.
- 1.2 "License" shall mean the License granted by this Agreement, to access and use the specified software and servers to obtain the Operating Services.
- 1.3 "Agreement" shall mean this Agreement and all Schedules and Exhibits attached hereto or attached by reference, now or in the future, that contain the terms and conditions applicable to the parties hereto.
- 1.4 "Commencement Date" shall be the date occurring the day after the Trial Term ends, and the first non-trial term begins.
- 1.5 "Confidential information" shall mean any information related to LEARN21, its personnel, its licensees, its suppliers, its plans, the Operating Services, or the education industry, including, but not limited to trade secrets, but nonetheless information that is not generally known, that may be of benefit to LEARN21 or the release of which could cause harm to LEARN21 or benefit LEARN21 competitors or potential competitors.
- 1.6 "Operating Services" shall mean those services obtained through the accessing and use of the specified LEARN21 software and servers, making such services available to Licensee and Licensee's authorized users, under the terms and conditions set forth in this Agreement, and as specified in Schedule A attached hereto and made part hereof.
- 1.7 "Integration Services" shall mean those acts performed by LEARN21, including, but not limited to the services set forth in Schedule B attached hereto and made part hereof, which services will permit Licensee and others authorized herein, to access and use the specified software, as provided herein.
- 1.8 "Trade Secret" shall mean trade secret as defined in the Ohio version of the Uniform Trade Secrets Act.
- 1.9 "Trial Term" shall mean a cost-free trial period, as set forth in the Trial Term Addendum No. 1 attached hereto and made part hereof.

2.0 **License.** LEARN21 grants to Licensee and Licensee accepts, in accordance with the terms and conditions set forth hereafter, a non-transferable, non-exclusive license to access and use the LEARN21 servers and software to obtain and use the Operating Services, identified in Schedule A. This Agreement also includes setup, hosting, and Integration Services by LEARN21.

2.1 **Contractual Restrictions.** Licensee agrees that it has no contractual restrictions on entering into this Agreement; that it is legally permitted to enter into this Agreement; and that it will and can comply with all of the terms and conditions set forth herein. Licensee also agrees that there are no local, state or federal statutes, rules, or regulations that interfere with Licensee's ability to fulfill all of its obligations herein or enforcement of this Agreement by LEARN21.

2.2 **Trial Term.** A Trial Term shall begin on the Effective Date of this Agreement and continue as set forth in the Trial Term Terms and Conditions, attached hereto and made part hereof as Addendum No. 1.

2.3 **Term.** The first term of this Agreement shall commence the day after the Trial Term ends and shall run until the next occurring June 30. At the conclusion of the Trial Term, the yearly fees will be prorated from the Commencement Date to the next occurring June 30. Subsequent renewal terms shall run for a period of one (1) year, starting on July 1st and ending on the next occurring June 30. This Agreement may be renewed by Licensee for additional one (1) year terms, which would include any modifications to the Agreement. A copy of the modified Agreement, if any, will be sent to Licensee no less than thirty (60) days before the end of a term.

2.4 At the end of the Trial Term or any regular one (1) year term, should Licensee wish to continue to use and access the specified software and continue to obtain the Operating Services, Licensee must submit a purchase order ("PO") to LEARN21. The PO must be submitted to LEARN21 no less than fourteen (14) days prior to the end of the Trial Term or regular one (1) year term, in order to assure sufficient time to review, discuss and try to reach an agreement on the terms of the PO. If a PO is not issued to LEARN21 in a timely manner or an agreement on the PO is not reached, LEARN21 may be unable to assure continuous access to and usage of the specified software at the end of the Trial Term or other regular term. Should the Trial Term or any subsequent term expire, with no agreement on the terms of a PO for a subsequent term, LEARN21 may suspend use of and access to LEARN21 servers, specified software and Operating Services, without further notice. LEARN21's failure to suspend such access and services, when it has a right to do so, shall not prejudice LEARN21's right to subsequently suspend such access and services at time during which there is no agreed PO in place for the continuation of such access and services.

2.5 If Licensee chooses to renew, the length of Licensee's obligation will be for an additional one (1) year term. Due to LEARN21's pricing structure and financial

projections, Licensee may not terminate this Agreement in mid-term, other than the trial-term, absent either (1) written agreement with LEARN21 permitting termination or (2) substantial breach of this Agreement by LEARN21.

2.6 **Use of Name and Trademarks.** All trademarks, service marks and trade names identifying LEARN21 or LEARN21 products or services (the "Marks") are the exclusive property of LEARN21. Licensee shall take no action which Licensee knows or should reasonably know is or will be likely to result in financial harm to LEARN21 or harm to its reputation or the goodwill in the Marks. Licensee acknowledges that use of the software may require that LEARN21 include Licensee's name in registrations and administrative filings which are available to the public. Licensee agrees that LEARN21 may include Licensee in LEARN21 marketing brochures and materials.

3.0 **Ownership.** Licensee acknowledges that no ownership rights nor any other rights of any kind are transferred by this license, other than the right to use the Operating Services only as provided herein. Licensee, its employees, agents, or others permitted access to the Operating Services, whether or not authorized by this Agreement, are prohibited from accessing the Operating Services code, reverse engineering, downloading, copying, selling, distributing, providing a copy of the Operating Services, in any format, or providing use of the Operating Services or otherwise transferring the Operating Services or any copy thereof or the user's manual or any copy thereof to any third party, including any parent, subsidiary or affiliate of Licensee. Any download or copy of the Operating Services, including the media upon which any such copy is placed, shall become the property of LEARN21 immediately upon the creation of such copy.

3.1 Licensee may not use the results from improperly accessing, reverse engineering or decompiling of the Operating Services or assist others in using such reverse engineering or decompiling, to create Operating Services, which are substantially similar to the Operating Services or which produce services that are competitive with the Operating Services.

3.2 This license is restricted to use by Licensee for Licensee's own business and operating purposes. It does not extend to any parent, subsidiary or other affiliated entities or political subdivisions of Licensee, as may now or in the future exist.

4.0 **License Fee.** The License Fee and the terms of payment are as shown in Schedule A, attached hereto and made part hereof.

6.0. **Proprietary Rights in the Specified Software and Operating Services.** Licensee acknowledges and agrees that the Operating Services, the specified software and Operating Services documentation and manuals, if any, and all copies (hereinafter all collectively referred to as the "Operating Services") provided under this License, belong to LEARN21 and are subject to the LEARN21's proprietary rights. The nature of the Operating Services are to be considered both a trade secret and confidential information belonging to LEARN21, for which

disclosure is prohibited, except to the extent specifically authorized by this Agreement and subject to disclosure under public records law. LEARN21 holds all rights, title and interest to the software and the Operating Services, including, but not limited to the file structures, codes, graphics and functionality. Such rights include rights in copyright, trade secret, and trademark.

6.1 Providing access to the specified software and Operating Services or other components of the specified software or Operating Services to any unauthorized third parties or permitting use by any such third parties, without the specific written consent of LEARN21, is absolutely prohibited, except to the extent required under public records law.

6.2 Licensee agrees that it will immediately disclose to LEARN21 any violation of this Agreement, which comes to its attention, and will assist LEARN21 in halting or limiting damage from such violation and in pursuing whomever has caused such violation to occur, including providing assistance, documents and witnesses in seeking any injunctive relief. This section is in addition to, not in substitution of, any rights which LEARN21 may have at law or otherwise and is not limited as to duration by the term of this Agreement.

7.0 **No Transfer of this License.** This Agreement provides for no transfer of any rights, title or interest in the software or Operating Services. Licensee may not transfer, by assignment, sale, gift, or otherwise the specified software or Operating Services nor permit any form of lien or claim upon the specified software or Operating Services or any components of the specified software or Operating Services, or copies thereof, or any license rights granted herein, without the prior written consent of Licensee.

8.0 **Enhancements.** Licensee has no rights to create modifications or enhancements to the specified software or Operating Services, without written permission from LEARN21. Should Licensee, despite such prohibitions, create copies, modifications or enhancements, whether by permission or in violation thereof, in addition to all other rights available to Licensee at law, all ownership rights, title and interest to such copies, enhancements or modifications, shall belong solely to LEARN21. If created with the permission of LEARN21, Licensee is hereby granted a license to use such enhancements for so long as this Agreement and a current PO to access and use the Operating Services continues in force. However, this License is not generally for the purpose of creating enhancements. ANY ALTERATION OF THE SPECIFIED SOFTWARE OR OPERATING SERVICES, WHICH MAY HAVE UNDESIRABLE CONSEQUENCES, WILL VOID ALL WARRANTIES SET FORTH IN THIS AGREEMENT AND POTENTIALLY SUBJECT LICENSEE OR USERS TO LIABILITY THEREFORE.

9.0 **Data Privacy and Sharing** The Parties acknowledge that the Licensee is subject to the Family Educational Rights and Privacy Act (FERPA), which law and supporting regulations generally address certain obligations of an educational agency or institution that receives federal funds regarding disclosure of personally identifiable information in education records. As set forth in more detail below, the Parties agree that LEARN21 is a "school official" under FERPA and has a legitimate educational interest in personally identifiable information from education records because LEARN21: (1) provides a service or function for which the

Licensee would otherwise use employees; (2) is under the direct control of the Licensee with respect to the use and maintenance of education records; and (3) is subject to the requirements of FERPA governing the use and redisclosure of personally identifiable information from education records. Learn21 may use de-identified product and usage data for product development, research, or other purposes. De-identified data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, name, identification numbers, dates of birth, demographic information, location information, and school identification. Further, LEARN21 agrees not to attempt to re-identify de-identified data and not to transfer de-identified data to any party not authorized to receive such data pursuant to this provision unless that party agrees not to attempt re-identification.

9.1 LEARN21 May Not Use any Personally Identifiable Information ("PII"). Under no circumstances will LEARN21 sell, provide, or offer any PII to any 3rd party for any reason, other than as may be needed for the purpose of improving the operating software or by order of any governmental authority. Under no circumstances will LEARN21 access, copy or use any PII for any reason, other than as may be needed for the purpose of improving the operating software. In such a circumstance, all PII, so used, will be deleted in its entirety, so as to be unrecoverable, as soon as use for improving the software is completed. Further, upon the termination of this Agreement with LEARN21 or any renewals hereof, all PII in LEARN21's possession, along with any copies, summaries or outlines of such PII, will be deleted from all electronic systems, so as to be unrecoverable, and all hard copy will be destroyed, within no more than thirty (30) days after termination. Licensee shall be notified of such deletion and destruction.

10.0 Data Storage and Access. LEARN21 uses significant security measures to protect the privacy of our users' data. These security protections include, but are not limited to, de-identification of certain personally identifiable information, encryption of all data at rest, and encryption of all data in transit. Licensees data will be in a fully hosted, managed virtual data center service that provides a comprehensive and private secure cloud computing site. Licensees will receive a comprehensive file backup solution daily that protects users against data loss. LEARN21 considers and acknowledges all data that LEARN21 may gather from Licensee or devices it owns and manages is the property of the Licensee. LEARN21's Licensees have complete and unequivocal rights to their data and how they wish their data to be utilized. Licensee can request access, removal, purging of Licensee data at any time by sending an email to info@learn21.org.

11.0 Security. LEARN21 uses industry best practice security technology, including next generation firewalls, network access controls, and DDoS mitigation, to protect against access, loss, misuse, or alteration of user information. All data resides in SOC 2-compliant data centers in the United States. Accessing LEARN21 services from another jurisdiction, you hereby consent to the transfer and processing of your information in the United States. LEARN21's Privacy Policy does not extend to any limitations inherent in the Internet or World Wide Web that are beyond LEARN21's control. LEARN21 implements password security requirements based on current available best practices; however, it is the Licensee's responsibility to not

disclose their passwords. Each user is obligated to maintain the secrecy of the user's password. LEARN21 also takes steps to protect Licensee's personal information offline by limiting the number of people who have access to Licensee's servers and to personal information. In the event of a breach of security affecting personal information, we will take such notification and other steps as may be required under applicable law. We ask that you do not ever send us or provide us highly sensitive information, such as social security numbers, personal health information, Driver's License numbers, etc.. We will not be liable for use or disclosure of any such information if provided to us without our consent.

12.0 **Limited Warranty.** The parties agree that this is an agreement for licensing of Operating Services, for the remote use of specified LEARN21 software, not for the sale of goods, and that the Uniform Commercial Code does not apply. LEARN21 grants a limited warranty that the Operating Services will be provided as specified and that it will use reasonable efforts, under the circumstances, to maintain the Operating Services and that, should the Operating Services become unavailable for reasons involving the specified LEARN21 software or LEARN21 host servers, LEARN21's sole limited warranty and remedy available to Licensee is for LEARN21 to use its reasonable efforts to re-establish such Operating Services in a commercially reasonable time.

12.1 Except for the express Limited Warranty set forth above and in the separate Infringement section below, **THERE ARE NO OTHER WARRANTIES, WRITTEN OR ORAL, OR PROMISES, EITHER EXPRESS OR IMPLIED, WITH REGARD TO THE SPECIFIED SOFTWARE OR OPERATING SERVICES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

12.2 **LEARN21 SHALL NOT BE LIABLE FOR DAMAGES, OTHER THAN AS SET FORTH ABOVE, INCLUDING BUT NOT LIMITED TO SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, WHETHER DIRECT OR INDIRECT, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE SOFTWARE AND OPERATING SERVICES, OTHER THAN THAT LEARN21 MAY BE LIABLE UP TO THE AMOUNT PAID BY LICENSEE FOR THIS LICENSE, WHERE A SUBSTANTIAL ERROR CANNOT BE SATISFACTORILY CORRECTED. SHOULD DAMAGES BE AWARDED AGAINST LEARN21, FOR ANY REASON WHATSOEVER, SUCH DAMAGES, IN THE AGGREGATE, SHALL NOT EXCEED THE TOTAL PAID TO LEARN21 FOR THE MOST RECENT ONE (1) YEAR LICENSE GRANTED BY THIS AGREEMENT.**

13.0 **Infringement.** LEARN21 shall defend, at its cost, any claim against Licensee alleging copyright infringement. Licensee shall promptly and in sufficient time to permit LEARN21 to defend, negotiate or settle any such claim, notify LEARN21 of the claim in writing. Such notice to LEARN21 should attach a copy of any Summons and Complaint, Cease and Desist letter or other notice from the party claiming infringement. LEARN21 shall have sole and exclusive control of the handling and disposition of such all claims, including whether and

for how much to settle any claims.

13.1 Should an injunction be issued preventing further use of the Operating Services, or should LEARN21 deem itself to be in jeopardy of such, LEARN21 shall, at its sole cost and in its absolute discretion, may either (1) negotiate a license for Licensee to continue use of the Operating Services; (2) replace the Operating Services with other Operating Services which will be substantially similar; or (3) grant Licensee a refund of a pro rata portion of the license fee, with two (2) years being considered the useful life of this version of the Operating Services. **THIS PARAGRAPH CONTAINS THE SOLE REMEDIES AND DAMAGES AVAILABLE TO LICENSEE FOR A CLAIM OF COPYRIGHT INFRINGEMENT. ALL OTHER DAMAGES ARE EXCLUDED, INCLUDING ALL DAMAGES EXCLUDED BY SECTION 8 OF THIS AGREEMENT.**

15.0 **Force Majeure.** LEARN21 shall not be liable for any disruption of Operating Services not caused by LEARN21 software or hardware. LEARN21 shall not be liable for any disruptions beyond LEARN21's control; due to any local, state or federal statutes, laws, regulations, rules or court orders; due to any strike, labor dispute, civil disorder, political disorder, war, physical attack, electronic attack, or due to failure on the part of Licensee or those operating with Licensee's authority, to maintain the systems over which the specified software is delivered.

15.1 Force Majeure shall not include a party's financial distress; inability to avoid a financial loss, changes in market prices or conditions, or changes in budget or a party's financial inability to perform its obligations hereunder.

16.0 **Termination.** This License shall terminate upon the happening of the following:

(a) Written notice by one party claiming substantial breach of this Agreement by the other party. The notified party will then have twenty (20) days to cure the claimed breach. Failure to cure will cause the Agreement to terminate.

(b) Written notice by either party, to the other party, that the Agreement will not be renewed at the end of the current term:

(c) Written notice after the expiration of a term, by either party, upon the failure to reach an agreement on the terms of a new PO for a one (1) year term extension.

(d) Either party voluntarily or involuntarily enters into bankruptcy, has a receiver appointed or transfers assets for the benefit of creditors, or is otherwise be disbanded or consolidated with another entity. Should a court prevent termination of this agreement, said agreement may be terminated immediately upon termination of that court's authority.

16.1 Upon termination, Licensee, its employees, directors, officers, managers and those who were authorized to use the Operating Services, shall no longer use or attempt to use the LEARN21 Operating Services.

17.0 This Agreement shall be governed by the laws of the State of Ohio. This Agreement was entered into in Cincinnati, Hamilton County, Ohio, and, without regard to conflict of law issues, all parties to this Agreement hereby specifically submit to jurisdiction of either the Common Pleas Court of Hamilton County, Ohio or the U.S. District Court for the Southern District of Ohio, Western Division, over any action concerning this validity, interpretation or enforcement of this Agreement.

18.0 **Validity.** If any provisions of this Agreement shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be impaired or effected thereby.

19.0 **Time for Bringing An Action.** No action of any kind arising out of this Agreement may be brought by either party more than one (1) year after the cause of action has arisen, nor, in the case of non-payment, more than one (1) year from the date LEARN21 knew of an unpaid invoice.

20.0 **Arbitration.** Any controversy or claim arising out of or relating to this contract, or the breach thereof, including issues of equity, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), and any judgment on the award rendered by the arbitrator, including injunctive relief, may be entered in any court having jurisdiction thereof. Arbitration shall be filed and conducted at the AAA office in Cincinnati, Ohio or, if such office no longer exists, the next closest office. The discovery rules of The Federal Rules of Civil Procedure shall apply to proceedings held hereunder, as modified as appropriate for arbitration, by the arbitrator. Questions regarding the extent and propriety of discovery shall be determined solely by the arbitrator, absent agreement of the parties.

21.0 **Complete Agreement and Signatures.** This Agreement is the complete and exclusive statement of the agreement between the parties and supersedes all prior agreements, oral or written, and all other communications, promises or discussions between the parties relating to the subject matter of this Agreement.

22.0 **Language.** Without regard to any languages into which this Agreement may be translated, the sole reference, should there be a disagreement between different language versions of this Agreement, shall be the English language version.

23.0 **Department of Commerce Rules.** Licensee specifically agrees, as an essential part of this Agreement, that it will submit to all rules and regulations of the United States Department of Commerce, including the United States Department of Commerce Export Control.

IN WITNESS WHEREOF, the parties having read this Agreement and agreeing to be bound by same, have hereunto set their signatures.

LICENSOR:

LEARN21: A Flexible Learning Collaborative,
an Ohio non-profit corporation

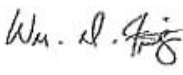
LICENSEE:

BY: William D. Fritz

BY: _____

TITLE: Executive Director

TITLE: _____

Signature: 

Signature: _____

Date: June 29, 2023

Date: _____

"SCHEDULE A"

License and License Fee

This Agreement includes the following Operating Services programs and pricing.

- (1) One2One Manager - a single web-based integrated tool to track assets, device assignments, and device breakage. Provides licensee with student/staff and device reporting, student behavior statistics. Provides integration with your Student Information System (SIS) and Mobile Device Management System (MDM).
- (2) License Cost - LEARN21 Operating Services
 - a. License Cost:

1935 Number of Licenses for 1 Year(s)

\$ 2709 Total Cost

SCHEDULE "B"

Integration Services:

- (1) Integration Services includes LEARN21 coordinating with Licensee to integrate with Licensee Student Information System (SIS) and Mobile Device Management System (MDM) to transfer data to One2One Manager
 - a. Student Information System (SIS) – LEARN21 will extract the following data from Licensee SIS at an agreed upon interval for the purpose of use with One2One Manger. SIS extract data: student first and last name, student ID, student email, student grade, student building.
 - b. Mobile Device Management System (MDM) - LEARN21 will provide Licensee the ability to extract the following data from Licensee MDM or the purpose of use with One2One Manger. MDM extract data: device serial number, device asset tag, device name, device model, device manufacturer, device location, device expiration.

ADDENDUM 1**Trial Term Terms and Conditions**

This Addendum provides additional terms and conditions that are applicable during the Trial Term, prior to the Commencement Date for the non-trial License Agreement and is made part of the Agreement.

A1.0 The purpose of the Trial Term is to allow Licensee to test, work with, use and ask questions about LEARN21's specified software and Operating Services prior to becoming obligated to a regular term under this License Agreement. Should there be a conflict between any terms and conditions in this Addendum 1 and terms and conditions elsewhere in this Agreement, the terms in this Addendum will prevail, but only during a Trial Term.

A2.0 The Trial Term will begin on the Effective Date of this Agreement and will end on September 30, 2023. The Trial Term will be fee free. Licensee and LEARN21 may agree upon a setup fee during the Trial Term determined on by the Licensee and LEARN21. During the Trial Term, Licensee is not obligated to continue to use the specified software or Operating Services provided by LEARN21. Licensee may notify LEARN 21 in writing, at any time during the Trial Term, that it wishes to terminate further use. As of the date of Licensee's termination or the expiration of the Trial Term, if no PO, for continuing this Agreement, has been issued by Licensee and accepted by LEARN21, Licensee and all those whose rights to use the specified software stem from Licensee's rights, shall no longer be entitled to access or use the specified software.

A3.0 All terms and conditions in the Agreement, other than those specifically altered by this Addendum 1 for the purposes of this Trial Term, shall be in full force and effect, including, but not limited to issues of software security; the rights to access the specified LEARN21 software; the manner in which the specified software may be accessed; licensee's rights, LEARN21's rights, copyright, trademark, trade secret and other intellectual property rights; and all rights and obligations pertaining to PII.

A4.0 Should Licensee choose to continue to access and use the specified software, after the end of the Trial Term, Licensee must submit a PO acceptable to LEARN21 as set forth in the Agreement.

MISSION

**Visionary Leaders Providing
Exemplary Service**



SERVICE AGREEMENT

2023-2024 School Year

This AGREEMENT shall serve as a contract between the Eaton Community Schools ("District") and the Montgomery County Educational Service Center ("Montgomery County ESC") beginning on July 1, 2023 and ending on June 30, 2024. Services will be provided and billed for the 2023-2024 school year.

1. SERVICES

- a. The Montgomery County ESC shall provide the following services to the District:

Gifted Supervision (40 days)

2. COMPLIANCE

- a. Instructional Programs and Related Services shall be rendered in compliance with law, and in accordance with acceptable standards and caseload.
- b. The parties shall cooperate in order to facilitate the success of the students served by the District and Montgomery County ESC, and, in particular, the District agrees to cooperate with Montgomery County ESC in the performance of Montgomery County ESC's duties and obligations hereunder.

3. COMPENSATION

- a. Based on the estimated cost of the services provided by the Montgomery County ESC, as provided above, the District agrees to pay the Montgomery County ESC the amount of \$29,000.00 pursuant to R.C. 3313.845 or applicable law. Both the District and the Montgomery County ESC understand and agree that this amount is based on estimated costs only and shall be modified pursuant to Section 3(c) of this Agreement.
- b. The District agrees to make payment in the amount listed in Section 3(a) to the Montgomery County ESC. The Montgomery County ESC will provide the District with an invoice for services hereunder on a quarterly basis. Payment is due within 30 days of the District's receipt of each invoice.
- c. Reconciliation of actual costs for said services shall be made at the end of the fiscal year with the final bill representing the actual/adjusted bill for services.

4. LICENSURE/CERTIFICATION

The Montgomery County ESC will ensure that all individuals providing services under this Agreement obtain and maintain all necessary licensure and/or certification. A copy of all such credentials/licenses shall be maintained by the Montgomery County ESC for inspection, upon request, by the District.

5. MANNER OF PROVIDING SERVICES

In performing the Services, the Montgomery County ESC at all times shall exercise independent professional judgment and shall determine the manner by which the Services are to be rendered. Except as otherwise agreed by the parties, the individuals performing Services pursuant to this Agreement will at all times remain employees or contractors of the Montgomery County ESC and Montgomery County ESC shall be solely responsible for all payroll functions, including retirement system contributions and all other legal withholding and/or payroll taxes, with respect to its employees. Unless otherwise agreed by the parties, Montgomery County ESC will be responsible for the training and direct supervision of its employees when they are providing Services to the District. Services shall be provided in accordance with all applicable laws, rules and regulations, including policies and regulations of

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Montgomery County ESC. At the discretion of Montgomery County ESC, personnel who are assigned by Montgomery County ESC to provide Services may also be assigned to provide services unrelated to the District (i.e., such personnel need not be exclusively assigned by Montgomery County ESC to provide Services hereunder).

6. CRIMINAL RECORDS CHECKS ON EMPLOYEES

The Montgomery County ESC will ensure that all applicable criminal records/background check laws and any hiring restriction imposed by those laws, including but not limited to those set forth in R.C. Chapter 3319, are adhered to and satisfied.

7. EVALUATIONS

The Board agrees that it shall be responsible for conducting evaluations of Montgomery County ESC personnel assigned to the District as required by R.C. 3319.01, 3319.02, 3319.11, 3319.111, or any other applicable provision of the Ohio Revised Code.

8. CONFIDENTIALITY/EDUCATION AND STUDENT RECORDS

- a. The District and Montgomery County ESC acknowledge that in the course of performing their obligations under this Agreement, both may obtain certain confidential and proprietary information about the other party ("Confidential Information"). Both the District and Montgomery County ESC agree that they will only use Confidential Information of the other party in the performance of its obligations under this Agreement and that it will not, at any time during or following the term of this Agreement, divulge, disclose or communicate any Confidential Information to any other person, firm, corporation or organization or otherwise use the Confidential Information for any purpose whatsoever without the prior written consent of the disclosing party.
- b. Confidential Information does not include information which is: (a) in the public domain other than by a breach of this Section on the part of the recipient; (b) rightfully received from a third party without any obligation of confidentiality; (c) rightfully known to the recipient without any limitation on use or disclosure prior to its receipt from the disclosing party; (d) independently developed by the recipient; or (e) disclosed pursuant to the order or requirement of a court, administrative agency or other government body.
- c. The parties acknowledge that under the terms of this Agreement they may be exchanging personally identifiable student information. Each party agrees that it shall not, and shall ensure that its respective employees, contractors, subcontractors, representatives or agents do not, access, use or disseminate any student information deemed personally identifiable, as defined in the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, 34 C.F.R. Part 99) and Ohio R.C. §3319.321, in violation of the terms of those laws or other law applicable to Montgomery County ESC or the District with respect to such information. Each party shall ensure that its respective employees, contractors, subcontractors, representatives or agents who are provided with access to personally identifiable student information will be trained in FERPA requirements and their duties to handle such information in compliance with those requirements.

9. UNEMPLOYMENT

The District agrees to pay, for any programs or services in which it has elected to participate, the pro-rata share of any unemployment benefits which may become payable due to the cancellation of the service or program.

10. FORCE MAJEURE

Neither the District nor Montgomery County ESC shall be deemed to be in breach or default of any provision of this Agreement by reason of a delay or failure in performance due to acts of God, acts of governments, wars, riots, strikes, accidents in transportation, or other causes beyond the control of the parties.

11. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties, and supersedes any previous agreements they may have made, whether orally or in writing.

12. AMENDMENT

Except as otherwise provided herein, this Agreement shall not be amended except in writing signed by both parties hereto and this Agreement may not be discharged except by performance in accordance with its terms or by writing signed by the party to be charged. However, if the District and/or Montgomery County ESC is required to amend the Agreement pursuant to a change in the Ohio Department of Education guidelines or other federal, state, or local law, it is agreed that this Agreement can be amended pursuant to such mandate through mutual consent of the District and Montgomery County ESC.

13. WAIVER OF BREACH

The waiver by any party of breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach hereof, or as to any party hereto.

14. BINDING EFFECT

This Agreement shall not be binding until adopted by the Board and Montgomery County ESC in public session and executed by the parties.

15. MEDICAID SCHOOL PROGRAM

With regard to any therapy services provided by the Montgomery County ESC pursuant to this Agreement, the Montgomery County ESC (1) will comply with the requirements of 45 CFR 164.504(e)(1) for safeguarding and limiting access to information concerning beneficiaries; (2) will allow the representatives of the U.S. Department of Human Services, ODM, ODE or their respective designee access to the subcontractor's books, documents and records; and (3) acknowledges that they or their principles are not suspended or debarred.

Please sign and return this agreement to the Treasurer, Montgomery County Educational Service Center.

For Eaton Community Schools:

Superintendent's Signature

Date

Treasurer's Signature

Date

For Montgomery County ESC:

Superintendent's Signature

Date

Treasurer's Signature

Date

MISSION

**Visionary Leaders Providing
Exemplary Service**



SERVICE AGREEMENT

2023-2024 School Year

This AGREEMENT shall serve as a contract between the Eaton Community Schools ("District") and the Montgomery County Educational Service Center ("Montgomery County ESC") beginning on July 1, 2023 and ending on June 30, 2024. Services will be provided and billed for the 2023-2024 school year.

1. SERVICES

- a. The Montgomery County ESC shall provide the following services to the District:

Literacy Supervision (120 days)

2. COMPLIANCE

- a. Instructional Programs and Related Services shall be rendered in compliance with law, and in accordance with acceptable standards and caseload.
- b. The parties shall cooperate in order to facilitate the success of the students served by the District and Montgomery County ESC, and, in particular, the District agrees to cooperate with Montgomery County ESC in the performance of Montgomery County ESC's duties and obligations hereunder.

3. COMPENSATION

- a. Based on the estimated cost of the services provided by the Montgomery County ESC, as provided above, the District agrees to pay the Montgomery County ESC the amount of \$81,000.00 pursuant to R.C. 3313.845 or applicable law. Both the District and the Montgomery County ESC understand and agree that this amount is based on estimated costs only and shall be modified pursuant to Section 3(c) of this Agreement.
- b. The District agrees to make payment in the amount listed in Section 3(a) to the Montgomery County ESC. The Montgomery County ESC will provide the District with an invoice for services hereunder on a quarterly basis. Payment is due within 30 days of the District's receipt of each invoice.
- c. Reconciliation of actual costs for said services shall be made at the end of the fiscal year with the final bill representing the actual/adjusted bill for services.

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The Montgomery County ESC will ensure that all individuals providing services under this Agreement obtain and maintain all necessary licensure and/or certification. A copy of all such credentials/licenses shall be maintained by the Montgomery County ESC for inspection, upon request, by the District.

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In performing the Services, the Montgomery County ESC at all times shall exercise independent professional judgment and shall determine the manner by which the Services are to be rendered. Except as otherwise agreed by the parties, the individuals performing Services pursuant to this Agreement will at all times remain employees or contractors of the Montgomery County ESC and Montgomery County ESC shall be solely responsible for all payroll functions, including retirement system contributions and all other legal withholding and/or payroll taxes, with respect to its employees. Unless otherwise agreed by the parties, Montgomery County ESC will be responsible for the training and direct supervision of its employees when they are providing Services to the District. Services shall be provided in accordance with all applicable laws, rules and regulations, including policies and regulations of

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ATTACHMENT D

Montgomery County ESC. At the discretion of Montgomery County ESC, personnel who are assigned by Montgomery County ESC to provide Services may also be assigned to provide services unrelated to the District (i.e., such personnel need not be exclusively assigned by Montgomery County ESC to provide Services hereunder).

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The Montgomery County ESC will ensure that all applicable criminal records/background check laws and any hiring restriction imposed by those laws, including but not limited to those set forth in R.C. Chapter 3319, are adhered to and satisfied.

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- a. The District and Montgomery County ESC acknowledge that in the course of performing their obligations under this Agreement, both may obtain certain confidential and proprietary information about the other party ("Confidential Information"). Both the District and Montgomery County ESC agree that they will only use Confidential Information of the other party in the performance of its obligations under this Agreement and that it will not, at any time during or following the term of this Agreement, divulge, disclose or communicate any Confidential Information to any other person, firm, corporation or organization or otherwise use the Confidential Information for any purpose whatsoever without the prior written consent of the disclosing party.
- b. Confidential Information does not include information which is: (a) in the public domain other than by a breach of this Section on the part of the recipient; (b) rightfully received from a third party without any obligation of confidentiality; (c) rightfully known to the recipient without any limitation on use or disclosure prior to its receipt from the disclosing party; (d) independently developed by the recipient; or (e) disclosed pursuant to the order or requirement of a court, administrative agency or other government body.
- c. The parties acknowledge that under the terms of this Agreement they may be exchanging personally identifiable student information. Each party agrees that it shall not, and shall ensure that its respective employees, contractors, subcontractors, representatives or agents do not, access, use or disseminate any student information deemed personally identifiable, as defined in the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, 34 C.F.R. Part 99) and Ohio R.C. §3319.321, in violation of the terms of those laws or other law applicable to Montgomery County ESC or the District with respect to such information. Each party shall ensure that its respective employees, contractors, subcontractors, representatives or agents who are provided with access to personally identifiable student information will be trained in FERPA requirements and their duties to handle such information in compliance with those requirements.

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Please sign and return this agreement to the Treasurer, Montgomery County Educational Service Center.

For Eaton Community Schools:

Superintendent's Signature Date

Treasurer's Signature Date

For Montgomery County ESC:

Superintendent's Signature Date

Treasurer's Signature Date