SUPERINTENDENT APPROVAL OF PURCHASE OR CONTRACT RENEWAL

Request for Payment ☐ **New Contract/Agreement** ☑

Addendum/Amendment ☐ **Annual/Renewal** ☐

Consulting

Vendor Name: Public Consulting Group LLC (PCG) **BIB#**
Specific description:

As the SC SDE transitions to a new IEP platform beginning with the 2024-2025 school, year with PCG, the district is transitioning all solutions to the same platform. PCG will provide the following solutions: EDPlan 504 Module,EDPlan Health Module, EDPLan Rehabilitation Behavioral Health Services Module, EDPlan Behavioral Threat Assessment and Suicide Prevention, and Medicaid Claiming.

Purpose/Outcome:

To support continued improvement in special education policy, operations, services, and instructional delivery.

Term: 2024-2025 School Year

Funding Source: 100260601534500 KA 5/24/24

SPECIAL REVENUE:_____ (Initial) CAPITAL/REFERENDUM/8% :_____ (Initial)

Costs: (See Exhibit B) - $75,500.00 Procurement Method: Student Services- JG

**Over $660,511.76 Board Approval required_____

MOUs, MOAs or Contracts Requiring Board Approval Must Be Reviewed By Legal Wendy Catledge 5/24/2024

Requested by:

Juliet White _____ Date: 05/22/2024

If applicable, by signing as the requester, you are confirming you have read and understand Proviso 1.93 (SDE: Partisanship Curriculum) and that the services provided by the contractor are in compliance with the order. Questions regarding the Proviso may be directed to the BCSD Legal Department.

Approved by (Chief Officer):

Alice W. Walker Date: 5/24/24

CFO Approval Tonya V Crafter Date: 5/31/24

Superintendent Approval _____ Date: 5/31/24

Updated 08/30/2022 KMY

PUBLIC CONSULTING GROUP LLC
EDPLAN™ LICENSE AND RELATED SERVICES AGREEMENT

This LICENSE AND RELATED SERVICES AGREEMENT, including all exhibits hereto (collectively the "Agreement"), is entered by and between Public Consulting Group LLC ("PCG"), and Beaufort County School District ("School System"), as of July 1, 2024 ("Effective Date").

WHEREAS, PCG entered into Contract No. 4400031805 with the South Carolina Department of Education ("SCDE") as of June 8, 2023, to provide a comprehensive Web-based Individualized Educational Program ("IEP"), among other services, that would be provided through a statewide system ("South Carolina EDPlan" or "EDPlanSC"), into which School System has opted ("EDPlanSC Agreement"); and

WHEREAS, School System desires to receive services in addition to and complementary (but separate from) those offered in the EDPlanSC Agreement, associated with PCG's Internet-based education case management, document creation and supporting analytics software (EDPlan™); and

WHEREAS, School System may wish to engage PCG to provide other goods and services to support the continued improvement in special education policy, operations, services, and instructional delivery;

NOW, THEREFORE, for and in consideration of the mutual covenants set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. DEFINITIONS. In addition to the terms defined elsewhere in this Agreement, terms appearing in initial capital letters shall have the following meanings:

1.1. "Confidential Information" means information designated or treated as confidential by either party, or which under the circumstances surrounding disclosure should in good faith be treated as confidential, including but not limited to: (a) computer programs, electronic codes, algorithms, know-how, formulas, processes, ideas, data, inventions (whether or not subject to patent or copyright), schematics, teaching and development techniques, trade secrets, improvements, research projects, and code; (b) information about costs, profits, markets, sales, customers, or clients; (c) technical, business, and financial plans; (d) employee personnel files and compensation information; (e) discoveries, developments, designs, improvements, regardless of the form of communication in each case, including extracts or summaries; and (f) any record (whether in print, electronic, or any other medium) maintained by School System, a School System employee or agent, or a party acting on School System's behalf, which is directly related to an identified student. "Confidential Information" also specifically includes the EDPlan Service, any third-party information disclosed to either party under obligations of confidentiality, and the identity of or any medical, financial, or personal information pertaining to anyone within PCG or School System provided that PCG shall be permitted to disclose education records to any subcontractor or vendor which is bound by confidentiality and data security requirements for the exclusive purpose of supporting the provision of services under this Agreement. Notwithstanding the foregoing, however, "Confidential Information" does not include information that: (i) was rightfully in possession of or known to the receiving party without any obligation of confidentiality prior to receiving it from the disclosing party; (ii) is, or subsequently becomes, legally and publicly

available without breach of this Agreement; (iii) is rightfully obtained by the receiving party from a source other than the disclosing party without any obligation of confidentiality; or (iv) is disclosed by the receiving party under a valid order of a court or government agency, provided that the receiving party provides prior written notice to the disclosing party of such obligation and the opportunity to oppose such disclosure.

1.2. "Documentation" means all technical information, training materials, instructions, manuals, and diagrams (in printed, electronic, or other media) pertaining to the EDPlan Service.

1.3. "EDPlan Service" means: (i) the Internet-based functionality and EDPlan modules identified in this Agreement; (ii) all products and services related to such services within this scope of work, including but not limited to Playbook; (iii) all PCG initiated Releases, Updates, and Upgrades applicable to the foregoing and offered to School System by PCG; and (iv) the Documentation developed by PCG for distribution and use in combination with the foregoing.

1.4. "Intellectual Property Rights" means patent rights, copyrights, trade secret rights, trademark rights, and any other intellectual property rights recognized by the law of each applicable jurisdiction in which PCG may market or license the EDPlan Service.

1.5. "New Releases" means any new revision of EDPlan Service that includes significant enhancements which add new features to the EDPlan Service and which generally will be designated by a new version number either to the left of the decimal point (e.g., from v2.03 to v3.00) or one decimal place to the right of the decimal point (e.g., from v2.03 to v2.10).

1.6. "Permitted Use" means use of the EDPlan Service by employees, contractors, and others affiliated with or authorized by School System only for School System's internal education-related purposes.

1.7. "School System User" means any employee, contractor, and other authorized user of the "School System" who will be granted access to the EDPlan Service.

1.8. "Term" means collectively and individually the Initial Term and Renewal Terms as defined by Section 2.

1.9. "Trademarks" means all trademarks, trade names, service marks, and logos now owned or hereinafter acquired by either party, and all other trademarks, trades names, service marks, and logos identifying or used in connection with their product or service offerings, whether or not registered under the laws of a particular jurisdiction or territory.

1.10. "Updates" means any new revisions and/or modifications made to the EDPlan Service and/or Documentation in order to correct operational errors.

1.11. "Upgrades" means any new revision of the EDPlan Service that includes corrections and minor modifications to existing features and which generally will be designated by a new version number which has changed from the prior number only two places to the right of the decimal point (e.g., from v2.02 to v2.03).

2. **TERM.** The initial term of this Agreement (the "Initial Term") shall commence on the Effective Date and shall end on June 30, 2025. Following the Initial Term, this Agreement shall

automatically renew for successive one-year terms (each a "Renewal Term"), unless either party notifies the other in writing at least sixty (60) days prior to the end of the Initial Term or then-current Renewal Term, as the case may be, of the notifying party's election not to renew this Agreement, whereupon this Agreement shall terminate on the last day of the Initial Term or the then-current Renewal Term, as the case may be.

3. EDPLAN™ SERVICE. Subject to the terms and conditions of this Agreement, including School System's performance of its obligations hereunder, PCG shall provide the EDPlan Service (including application and related supporting services) to School System, as more fully described below and in Exhibit A. PCG shall provide those services listed in Exhibit A (i) that School System affirmatively selects in Exhibit A, (ii) by way of an amendment to the Agreement, or (iii) through a purchase order or other document executed by both parties where School System expresses its affirmative choice of services in writing.

3.1. Grant of License for EDPlan Service. PCG grants to School System, and School System accepts, a non-exclusive, non-transferable, non-sublicensable, and revocable right and license, during the Term only, to access via the Internet and use the EDPlan Service to the extent reasonably necessary in performing related school business functions.

3.2. Grant of License for Documentation. PCG grants to School System, and School System accepts, a non-exclusive, non-transferable, non-sublicensable, and revocable royalty-free license under PCG's copyrights in PCG's Documentation, during the Term only to (i) incorporate PCG's Documentation, in whole or in part, into other written materials prepared by or for School System with respect to the EDPlan Service; and (ii) reproduce and distribute modified and original versions of PCG's Documentation, in hard copy or in an on-line format, as part of School System's Documentation for the EDPlan Service, and, if such School System's Documentation is in an on-line format, allow School System Users to make print copies of the same.

3.3. Restrictions on License Grant. Unless expressly authorized by this Agreement or in writing by PCG:

3.3.1. School System shall not use or grant to any person or entity other than authorized School System Users the right to use the EDPlan Service, which users shall be subject to the terms set forth herein. School System shall not distribute, market, or sublicense the EDPlan Service, and shall not permit any School System User or third party to do so.

3.3.2. School System shall ensure that appropriate proprietary notices indicating PCG's Intellectual Property Rights in the EDPlan Service and related Documentation are placed on all copies of written materials distributed by School System relating thereto. Examples of such documentation include training materials and manuals. School System shall not remove, modify, or suppress any confidentiality legends or proprietary notices placed on or contained within the EDPlan Service, and shall not permit any School System User or third party to do so.

3.3.3. School System shall not distribute any PCG documentation or intellectual property made available through this Agreement to any individual or organization that is not part of School System or an authorized School System User, and shall not permit any School System User or third party to do so.

3.3.4. School System shall not transfer, rent, or permit access to the EDPlan Service to any third party, and shall not permit any School System User or third party to do so.

3.3.5. School System shall not modify, decompile, disassemble, or otherwise attempt to reverse engineer the EDPlan Service or any portion thereof, and shall not permit any School System User or third party to do so.

3.3.6. School System shall not circumvent any security protection within the EDPlan Service, and shall not permit any School System User or third party (e.g. other vendors or consultants) to do so.

3.4. Reservation of Rights. Subject to the license rights granted to School System by this Section, all right, title, and interest in and to the EDPlan Service, including the Intellectual Property Rights and technology inherent in EDPlan Service, are and at all times will remain the sole and exclusive property of PCG. No right to use, print, copy, distribute, integrate, or display the EDPlan Service, in whole or in part, is granted in this Agreement, except as is explicitly provided in this Agreement. Nothing contained in this Agreement will directly or indirectly be construed to assign or grant to School System any right, title, or interest in or to PCG's Intellectual Property Rights or other rights in and to the EDPlan Service or PCG's Trademarks. Except as expressly authorized by this Agreement, School System shall not use, display, copy, distribute, modify, or sublicense the EDPlan Service. PCG reserves all rights not expressly granted to School System by this Agreement.

4. ACCESS TO EDPLAN. PCG will provide access to the EDPlan web-based application to School System. PCG does not provide the Internet connectivity to School System, and obtaining and maintaining such connectivity will be the sole responsibility of School System.

5. SUPPORT. PCG will make available qualified personnel to School System during the Term to provide technical support, and does not include the provision of guidance or recommendations related to district policy, operations, instruction, or data analysis. Such personnel will be skilled in the functioning and application of the EDPlan Service to answer questions and provide support. PCG agrees to provide consulting services support to School System for unique projects on an as-available basis, upon School System's request and subject to agreed-upon additional compensation, which will be memorialized in writing and incorporated into and subject to the terms and conditions of this Agreement.

6. COMPENSATION. In consideration of the licenses and services granted by PCG to School System under this Agreement, School System shall pay PCG the fees as described in Exhibit B and shall be due and payable to PCG according to the schedule set forth in Exhibit B. After the first contract year of this Agreement, PCG will notify School System for approval to increase the Annual Fee for each subsequent contract year for ongoing maintenance and support. In the event that this Agreement is terminated for any reason prior to the expiration of the then-current Term, any prepaid fees shall be non-refundable. In the event that an EDPlan Service module or feature that School System has requested, through the means set forth in Section 3, is not activated or made available for use by School System, exclusively due to the acts or omissions by School System, PCG shall invoice and School System shall pay PCG for all costs and expenses (including internal development staff resources) incurred in preparing, developing, customizing, or otherwise implementing such EDPlan Service module or feature, provided that such amount will not exceed the Annual Fee as set forth in Exhibit B for such module or feature. PCG reserves the right to

suspend access, with no less than ten (10) days' notice, until payment of any fees that are due and payable are remitted.

7. WARRANTIES.

7.1. Limited Warranty. PCG represents and warrants that it has the right to license the EDPlan Service as specified by this Agreement, and that the use of the EDPlan Service contemplated in this Agreement does not infringe upon, violate, or constitute a misappropriation of any copyright, trademark, trade secret, or any other proprietary right of any third party. Under no circumstances will PCG be responsible for School System's hardware, software, browsers, or Internet connections that provide access to the EDPlan Service. PCG shall use reasonable efforts to maintain the EDPlan Service and to correct any problems that may arise with the use of the EDPlan Service. PCG's scheduled or emergency maintenance of the EDPlan Service, the scheduled maintenance of PCG's Internet provider, or any force majeure event, shall not be deemed a failure to provide the EDPlan Service.

7.2. No Warranty as to Accuracy of Translations. The EDPlan Service may utilize translation software powered by Google Translate to improve accessibility. These translations are provided "as is." PCG and Google disclaim all warranties related to the translations, expressed or implied, including any warranties of accuracy, completeness, reliability, and any implied warranties of merchantability, fitness for a particular purpose, and noninfringement. For any issues with Google Translate, School System is advised to visit http://translate.google.com/support/.

7.3. DISCLAIMER. PCG specifically disclaims any other warranties, whether written or oral, expressed or implied, with respect to the EDPlan products or related services provided by PCG under this Agreement, including any implied warranties or merchantability or fitness for a particular purpose.

8. PROPRIETARY RIGHTS; PROTECTION OF CONFIDENTIAL INFORMATION

8.1. Ownership. School System acknowledges that PCG owns the EDPlan Service, that the EDPlan Service is not generally published, and that the EDPlan Service embodies the Confidential Information of PCG. All right, title, and interest in and to the EDPlan Service, including, without limitation, all copyrights, trade secret rights, and other intellectual property rights pertaining in and to the EDPlan Service shall remain vested in PCG and its third-party licensors. PCG acknowledges that School System owns all of the data inputted by each School System User for purposes of creating an Individualized Education Plan and any and all reports produced as a result of using the EDPlan Service during the Agreement term. School System acknowledges that PCG shall have the right to aggregate any data input by School System or School System Users for PCG's own purposes, but shall not use or disclose personal or individual identifying information where the use or disclosure would constitute a breach of a known privacy policy adopted by either PCG or School System.

8.2. Confidentiality Obligations. Subject to any applicable public records law, each party agrees that: (i) neither party will disclose to any third party any of the other party's Confidential Information except to the receiving party's employees, subcontractors, and contractors with a need to know and who have agreed in writing to confidentiality and data security obligations substantially the same as those set forth herein; (ii) each party will use the same degree of care it uses to maintain the confidentiality of its own information of similar importance in its possession

or control, but in no event less than a reasonable degree of care; and (iii) neither party will use or authorize the use of Confidential Information for any purpose other than to fulfill such party's obligations hereunder. Each party agrees that neither party will disclose to any third party any of the terms of this Agreement, which will be treated as Confidential Information, except to the receiving party's employees, contractors, and advisors with a need to know and who have agreed in writing to confidentiality obligations substantially the same as those set forth herein, and neither party will use the terms of this Agreement for any purpose other than to fulfill such party's obligations under this Agreement, except as either party is otherwise required by law. The parties may modify these obligations through express written agreements.

8.3. Injunctive Relief. Each party acknowledges that the other party's Confidential Information contains trade secrets of such other party, the disclosure of which would cause substantial harm to such other party that could not be remedied by the payment of damages alone. Accordingly, such other party will be entitled to seek preliminary and permanent injunctive relief and other equitable relief for any breach of this Section.

8.4. School System Duties. School System will take reasonable steps to protect the EDPlan Service from unauthorized access, copying, dissemination, and disclosure, and from other unauthorized use, and will report promptly to PCG any such use of which School System becomes aware. School System shall be responsible for the quality, integrity, and accuracy of all data entered and used in connection with the EDPlan Service, including all deletions of such data by School System Users. School System is responsible for establishing and enforcing any School System policies related to data security, information management, account management of School System users, and the proper handling of data extracted, reported, or otherwise removed by the system by School System personnel.

8.5. PCG Duties. PCG will take reasonable steps to protect the data that School System enters as part of its use of the EDPlan Service. PCG will use technical, administrative, and physical safeguards to protect against unintentional loss and against unauthorized access, destruction, misuse, modification, and disclosure. Although no computer system or information can ever be fully protected against every possible hazard, PCG is committed to providing reasonable and appropriate security controls to protect information against foreseeable hazards. PCG recognizes that School System data is the property of School System. Upon the termination or expiration of this Agreement and for a limited period of no more than thirty (30) days, PCG will provide access to all data to School System. A fee will apply if School System requests PCG to download and transmit the data to School System. Notwithstanding anything to the contrary, PCG may keep a backup copy of the data unless otherwise agreed by the parties, subject to applicable law.

8.6. Third Party Infringement. PCG reserves the sole and exclusive right at its discretion to assert claims against third parties for infringement or misappropriation of its Intellectual Property Rights in the EDPlan Service.

8.7 Legal Obligation. Nothing in this Agreement prohibits the party from disclosing Confidential Information pursuant to a lawful order of a court or government agency, but only to the extent of such order, and only if the party gives immediate notice of such order to the other party in order that it may seek a protective order or take other action to protect the information that was ordered to be disclosed.

8.8 Termination Conditions. Upon termination or expiration of this Agreement, each party shall cease use of Confidential Information received from the other party. At the request of the disclosing party, the receiving party shall promptly destroy all physical copies of such information in its possession, custody, or control and shall furnish a written certification of such destruction within thirty (30) days of such request. If destruction is not practicable, because the Confidential Information lies on disaster recovery systems or backup tapes, the receiving party shall so notify the disclosing party and shall keep such information secure and confidential in perpetuity. The termination or expiration of this Agreement for any reason shall not discharge the obligations of the parties with respect to the protection of Confidential Information set forth in this Section.

9. PRODUCT MARKING. School System acknowledges that PCG is and shall remain the owner of all right, title, and interest in and to each of PCG's Trademarks in any form or embodiment thereof, and is also the owner of all goodwill associated with PCG's Trademarks. All goodwill generated by School System use of the EDPlan Service with respect to PCG's Trademarks shall inure exclusively to the benefit of PCG. School System shall promptly notify PCG of any third-party infringements of any of the PCG Trademarks used in connection with the EDPlan Service, or any act of unfair competition by third parties relating to the PCG Trademarks, within a reasonable time of School System's knowledge of such infringements or acts. School System is also prohibited from altering, modifying, or creating any derivative trades names, service marks, and logos concerning EDPlan without the express written consent of PCG.

10. INDEMNIFICATION AND LIMITATION OF LIABILITY

10.1. Indemnification. Each party shall be responsible for its own acts and omissions and the acts and omissions of its employees, officers, directors, and affiliates. Parties shall not be liable for any claims, demands, actions, costs, expenses and liabilities, including reasonable attorneys' fees, which may arise in connection with the failure of the other party or its employees, officers, directors, or agents to perform any of their obligations under this Agreement. Notwithstanding anything to the contrary herein, each party's liability shall be governed by the South Carolina Tort Claims Act.

10.2. Limitation of Liability. NO PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES RESULTING FROM OR RELATING TO THE AGREEMENT, WHETHER BASED ON BREACH OF CONTRACT, TORT, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE TOTAL AGGREGATE LIABILITY OF EACH PARTY, ITS AFFILIATES, AND ALL OF ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SUBCONTRACTORS, AGENTS, SUCCESSORS AND ASSIGNS UNDER THIS AGREEMENT (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY IN TORT, IN LAW OR EQUITY, OR OTHERWISE) SHALL NOT EXCEED, IN THE AGGREGATE, THE AMOUNT OF FEES PAID OR PAYABLE BY SCHOOL SYSTEM TO PCG, FOR THE SERVICE OR MODULE FROM WHICH THE LIABILITY AROSES, DURING THE TWELVE (12) MONTHS PRIOR TO THE MONTH IN WHICH THE FIRST EVENT GIVING RISE TO LIABILITY OCCURRED. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO CLAIMS FOR (a) BREACH OF CONFIDENTIALITY OR PROPRIETARY RIGHTS, (b) INFRINGEMENT OF PRODUCT MARKING, (c) INDEMNIFICATION, OR (d) FRAUD OR MISREPRESENTATION.

11. TERMINATION. Notwithstanding the provisions of Section 2, either party may terminate this Agreement for cause on or after the thirtieth (30th) day after such party gives the other party written notice of a material breach by such other party of any obligation hereunder, unless such breach is cured within thirty (30) days following the breaching party's receipt of such written notice.

11.1. Effect of Termination or Expiration. Upon termination or expiration of this Agreement, and subject to Section 8.5 above: (i) all licenses granted to School System by PCG will terminate; and (ii) all School System User access to the EDPlan Service will terminate. Notwithstanding anything to the contrary in this Agreement, PCG may keep a backup copy of the data unless otherwise agreed by the parties, subject to applicable law.

11.2. No Damages for Termination or Expiration. Neither party will be liable to the other for damages of any kind, incidental or consequential damages, or lost profits, on account of the termination or expiration of this agreement in accordance with its terms. Each party waives any right it may have to receive any compensation or reparations on termination or expiration of this agreement, other than as expressly provided in this agreement. Neither party will be liable to the other on account of termination or expiration of this Agreement for reimbursement or damages for the loss of goodwill, prospective profits, or anticipated income, or on account of any expenditures, investments, leases, or commitments made by either party or for any other reason whatsoever based upon or growing out of such termination or expiration.

12. ADDITIONAL SERVICES. The parties to this Agreement may expand the scope of this Agreement to include other products or services offered by PCG, and to specify rates of payment for such products or services, by means of amendments to this Agreement signed by an authorized representative of each party and referencing this Agreement.

13. PROCUREMENT. School System is solely responsible for its compliance with applicable procurement laws and regulations. To the extent specifically authorized by applicable procurement laws and regulations, this Agreement may be utilized by another school district or other entity for purposes of its own authority to contract with PCG. The terms of such resulting contract may differ from this Agreement, and School System assumes no authority, liability, or obligation to PCG or to any other school district or other entity with respect to any such resulting contract.

14. WAIVER AND NONEXCLUSIVE REMEDY. No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of such rights. Except as otherwise specified in this Agreement, the exercise by either party of any remedy under this Agreement is without prejudice to its other remedies under this Agreement or otherwise.

15. COMPLIANCE WITH LAWS. Each party agrees to comply with all applicable laws, rules, and regulations in connection with its activities under this Agreement.

16. ADDITIONAL TERMS

16.1. Assignment. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns, provided, however, that neither party may assign this Agreement, in whole or in part, without the other party's written consent. Any attempt to assign this Agreement without such consent will be null and void. A change of control of a party will not be deemed an assignment. Notwithstanding anything to the contrary, a party may assign this Agreement to any affiliate, parent organization, or subsidiary upon written notice to the other party.

16.2. Governing Law, Jurisdiction, and Venue. This Agreement, and all other aspects of the business relationship between the parties, is to be construed, interpreted, and enforced under and in accordance with the laws of the State of South Carolina, without regard to choice of law provisions. The parties consent to personal jurisdiction in its courts, and agree that the state and federal courts of Charleston, South Carolina shall have exclusive jurisdiction over the enforcement of this Agreement and that venue is appropriate.

16.3. Severability. If any provision of this Agreement is found invalid or unenforceable by a court or other tribunal of competent jurisdiction, that provision will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect.

16.4. Force Majeure. Neither party shall be responsible for delays or failures in performance resulting from acts of God, acts of civil or military authority, terrorism, fire, flood, strikes, war, epidemics, pandemics, shortage of power, or other acts or causes reasonably beyond the control of that party. The party experiencing the force majeure event agrees to give the other party notice promptly following the occurrence of a force majeure event, and to use diligent efforts to re-commence performance as promptly as commercially practicable. For the sake of clarity, notwithstanding a force majeure event, including a school closure, all prepaid fees are nonrefundable.

16.5. Notice. Any notices, requests, consents and other communications hereunder shall be in writing and shall be effective either when delivered personally to the Party for whom intended, e-mailed with an acknowledgment of receipt, or five (5) days following deposit of the same into the United States mail (certified mail, return receipt requested, or first class postage prepaid), addressed to such party at the address set forth below, who shall serve as contact persons unless replaced by a party by written notice to the other party:

For Public Consulting Group LLC:
Attn: Legal Department
Public Consulting Group LLC
148 State Street
Boston, MA 02109
E-Mail: mkmetz@pcgus.com

For Beaufort County School District:
Attn: Dr. Juliet White
2900 Mink Point Blvd
Beaufort, SC 29901
E-Mail: juliet.white@beaufort.k12.sc.us

16.6. Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

16.7. Entire Agreement. This Agreement and its exhibits are the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter, including rendering the 2019 agreement between the parties as moot and expired as of the Effective Date of this Agreement. Provisions of this Agreement may be modified or waived only by a written document executed by authorized representatives of both parties. For the sake of clarity, the parties agree that any service that PCG provides School System pursuant to the EDPlanSC Agreement shall be governed exclusively by the EDPlanSC Agreement and not the

terms and conditions set forth in this Agreement. The terms and conditions of this Agreement shall only govern any services PCG provides to School System, either currently or prospectively, that are in addition to those services provided under the EDPlanSC Agreement. Notwithstanding anything to the contrary in this Agreement, in the event that the EDPlanSC Agreement expires or is terminated, PCG and School System agree to expeditiously negotiate in good faith an amendment to this Agreement that sets forth the terms and conditions, including compensation, for PCG to directly provide School System all the services PCG had been providing under the EDPlanSC Agreement; otherwise, this Agreement will concurrently expire upon the expiration or termination of the EDPlanSC Agreement.

16.8. Survival. The provisions of this Agreement which by their nature would continue beyond the termination or expiration of this Agreement will survive the termination or expiration of this Agreement.

16.9. Headings. The various headings and subheadings in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provision hereof.

16.10. Authority. Each party represents and warrants that it has sufficient rights and authority to enter into this Agreement and that this Agreement violates no previous agreement between each party and any third parties.

16.11. Interpretation. The parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either party by reason of authorship.

16.12. Amendment. This Agreement may be amended only by written agreement of the parties, signed by authorized representatives and referencing this Agreement.

16.13. Non-Discrimination. School System is committed to nondiscrimination and equal opportunity for all students, parents/legal guardians, staff, visitors, applicants for admission and employment, personnel, and community members who participate or seek to participate in its educational programs or activities. Accordingly, School System does not discriminate against any individual on the basis of race, religion, gender, gender identity, sexual orientation, sex, pregnancy, childbirth, or any related medical conditions, color, physical or mental disability, age (40 or older), ancestry, genetic information, national origin, or any other applicable status protected by Title VI, Title VII, Title IX or any other local, state, or federal law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

PUBLIC CONSULTING GROUP LLC

By: Ladd Van Devender
Signature

Ladd Van Devender
Printed Name

Manager
Title

5/31/24
Date

BEAUFORT COUNTY SCHOOL DISTRICT

By:
Signature

Frank Rodriguez
Printed Name

Superintendent
Title

5/31/24
Date

EXHIBIT A
EDPlan Scope of Work

Exhibit A details the EDPlan modules, features, and service levels available to School System under this Agreement. School System selections to be delivered under this Agreement are marked with an X.

School System agrees to accept solution(s) as is, without further customization or technical development. For new implementation of any module, PCG will hold a kickoff meeting with the designated contract manager and additional School System staff to review district procedures and discuss implementation and configuration options that are available to School System.

Subject to the terms and conditions of this Agreement, PCG will provide the following Services:

EDPlan Add-On Module Licensing

☒ **EDPlan 504 Module.** PCG's web-based, process-driven solution assists administrators and instructional personnel with documentation to manage and develop Eligibility Determinations and Accommodation Plans.

- *504 Documents.* School System agrees to use the uniform set of module-specific documents provided with this solution, including if applicable those required by the State. These documents shall include, but are not limited to:
  - Invitation to Meeting
  - Student and Parents Rights Document
  - Eligibility Checklist
  - Prior Notice of Reevaluation/Assessment
  - Parent Consent for Evaluation/Assessment
  - Eligibility Determination
  - Non-Eligibility Determination
  - Accommodation Determination Worksheet
  - Accommodation Plan
  - Accommodations At-A-Glance Document
  - Review of Accommodations Form
  - Section 504 Discontinuation Letter
  - Manifestation Determination Review

  Additional documents may be requested by School System to accommodate local policies and procedures, at an additional cost. Module documents utilize information in the designated School System database.

- *504 Reports.* Standard reports included with the 504 module:
  - 504 Accommodations
  - 504 Accommodations – Caseload
  - 504 Student Report

☐ **EDPlan Health Module.**

PCG will add the EDPlan Health Module to the exiting EDPlan site. The EDPlan Health Module is a web-based service documentation site and health record management system

where nurses and other health providers can collect and view all pertinent health information and encounters for a student.

EDPlan Health Base Functionality

Configuration of the base EDPlan Health solution will provide school nurses and other school support staff with the following features and functionality:

- Nursing & Medication Service Logging Wizards
- Daily Schedule / Dashboard for Medications and Nursing Services
- Nursing Contact Notes
- Immunization Compliance and Alerts
- Medication Inventory Tracking and Alerts
- Mass Screenings Wizard for blood pressure, dental, growth/BMI, hearing, lice, scoliosis, and vision
- Ad Hoc Office Visit Logging Templates & Letters (pdf)
- Supervisor Sign-Off Wizard
- Centralized Student Health Information Page
- Individualized Healthcare Plan Templates (pdf)
- Standard Reports: Health Alerts Report (xls), Individual Healthcare Plans (xls), Medication Inventory Report (pdf), Non-Compliant Immunizations Report (xls), Nursing Service Log Report (xls), Nursing Screening Standard Report (xls), Scheduled Nursing & Medications Report (xls)
- Draft service log completion wizard
- Ability to upload standard district templates/documents for easy access by nurses to download

Implementation Assumptions:

- EDPlan Health includes the baseline documents with no customized application development or specialized reporting.
- Access to the EDPlan Health module will be granted through the creation of new user types or modification of existing user types pending School System approval.
- PCG will administer initial role privileges for EDPlan Health users to document nursing and medication services. School System will be responsible for future role privileges after implementation and administrator training.
- Data integration and ongoing technical support for:
    - PCG will follow the existing data integration in place between EDPlan and School System, to include additional fields required for the EDPlan Health module
    - Recurring data imports from your student information system: student demographic data
    - One-time data imports: users, student health alerts, student immunization records (if applicable)
    - Data integration must follow PCG's pre-set, standard integration using PCG's templates
- End user manual and quick reference guide will be provided in electronic format.
- PCG will make updates according to administrator-approved additions to medications, diagnosis codes, and health alerts.

- Establishment of post-implementation Change Management process lead by School System Nursing Leadership.

☐ **EDPlan Rehabilitative Behavioral Health Services (RBHS) Module.** PCG's EDPlan RBHS module is a web-based case management and service documentation system for providers to document behavioral health services. This module includes:

- User types specific to the RBHS module, giving these staff members specific access to RBHS documents and data
- A guided process that leads staff through the steps of referral, assessment, plan of care, progress tracking, and discharge; documents and services are saved to a student's record
- A fully electronic Licensed Practitioner for the Healing Arts (LPHA) approval process, including system notifications, if the Diagnostic Assessment (DA), Individual Plan of Care (IPOC), and/or Prior Authorization (PA) require review
- Visual compliance symbols to help staff keep track of important timelines associated with IPOC creation and the 90-Day Reviews
- RBHS-specific reports

☒ **EDPlan Behavioral Threat Assessment and Suicide Prevention.** PCG's Behavioral Threat Assessment (BTA) solution assists in the implementation of a consistent, structured approach for multidisciplinary teams to identify and support students who may present a threat to self or others; helping school personnel document the threat, gather, share, and consider relevant information to make informed decisions, consider key questions to assign risk and determine next steps for intervention, and prepare a monitoring plan if needed.

The Threat-to-Self or Suicide Prevention (SRA) module works with a common incident intake form shared by the BTA process. According to the risk, users are prompted through a Threat-to-Others or Threat-to-Self risk assessment. As with the BTA process, a safety and support supervision plan with recommended interventions is created and monitored for the individual student. Studies have shown that there is significant overlap between threat to self and threat to others.

- Includes standard configuration supporting National Threat Assessment Center (NTAC) protocols for the BTA process.
- Includes standard configuration supporting research-based best practices for suicide prevention for the SRA process.
- In the first year of service, PCG will provide one (1) day of virtual training sessions for BTA teams and School System administration. For the duration of the Agreement term, PCG will provide access to recurring BTA functionality training webinars. Additional training sessions can be requested for an additional cost.
- Note that PCG's Threat Assessment solution is a set of tools to be used by School System's school-based inter-disciplinary threat assessment team to (1) conduct evaluations about student risk to themselves and others, and (2) allow such teams to then determine independently any follow-up steps to monitor and support students. The Threat Assessment solution does not render any determinations or conclusions. It uses nationally recognized guidelines and frameworks that

provides School System's inter-disciplinary teams the ability to document threats and incidents, evaluate students, and render the team's its own assessments, conclusions, and support decisions. The Threat Assessment solution should not be construed as determining actions or decisions upon which School System must or should rely.

☐ **EDPlan MTSS (Identify) - Early Warning Dashboard.** Enables teachers, school administrators, and district staff to quickly identify students who may be at risk of not meeting academic or school-wide behavior expectations and then keep track of how well students respond to associated instruction and/or interventions.

☐ **EDPlan MTSS (Intervene) – Intervention Management.** A comprehensive intervention management system that focuses on assisting schools with managing their MTSS framework while increasing compliance, accountability, and documentation. It enables school personnel to easily manage both academic and behavior/SEL intervention plans, monitor student progress, and maintain important documentation of observations, plan reviews, screening results, and parental involvement.

☒ **Medicaid Claiming.**

**If any of these services are provided, the terms and conditions in Exhibit C will also apply.*

PCG will work with School System to prepare and maintain necessary paperwork for PCG to receive approval for submitting electronic claims and Remittance Advice to and from SCDHHS on behalf of School System.

- PCG will prepare, approve and update as appropriate, a Compliance Checklist identifying the relevant Medicaid documentation rules for the SCDHHS program.
- School System will complete a PCG Compliance Checklist to select options with respect to claims.
- Based on the information entered in EDPlan by School System as well as the options selected in the Compliance Checklist, PCG will process, generate, and submit reimbursement claims to SCDHHS on behalf of School System.
- PCG will perform monthly Medicaid eligibility checks.
- PCG will review Remittance Advices and reconcile and correct denied claims as appropriate.
- PCG will provide audit preparation and defense on claims for payment submitted by PCG on behalf of School System.
- PCG will retain documentation that supports its claims for Medicaid reimbursement and meets the minimum SCDHHS program requirements for five (5) years.
- PCG will safeguard student records in accordance with FERPA, applicable provisions of HIPAA, and all applicable South Carolina state laws.

☐ **RBHS Claiming**

- Medicaid match, including Managed Care Organization (MCO) eligibility;
- Ability for School System to enter MCO Prior Authorization information, to then be used in the claiming process;

- Compliance checks/validations, including those specific to RBHS (as outlined in an updated Compliance Checklist);
- Submission of claims for eligible students to either Medicaid or an MCO;
- Assistance with enrollment in electronic funds transfer (EFT) and electronic remittance advice (ERA) for MCO payers. School System will take the necessary action to complete enrollment. Failure to do so will limit PCG's claiming and reporting capabilities on behalf of School System;
- Reimbursement review and resubmission of denials as appropriate;
- Access to an EasyTrac Dashboard which shows service exceptions (i.e., failed checks/validations) and highlights opportunities for reimbursement optimization; and,
- Claiming reports that provide reimbursement and denials information.

User Support and Training

EDPlan was designed to be intuitive and to facilitate ease of use. Licensing fees include user support related solely to specific functionality and system features that are included in School System's contract. In addition to the Support within the application, where users can find system documentation and FAQs, PCG provides live support to trained School System administrators on system functions. Tier-2 User Support includes message board communication tools that are embedded within the EDPlan user interface. PCG will respond to School System administrator inquiries within one business day. Items that are escalated for additional investigation or resolution may take additional time to resolve.

Training for EDPlan modules will be provided based on the table below:

EDPlan Module	Trainings
EDPlan 504	• One (1) initial training (virtual) for up to 30 of **district 504 staff** during year one of the contract • Invitation to participate in annual refresher trainings
Behavioral Threat Assessment/Suicide Risk Assessment	• One (1) initial **administrator** training (virtual) • Two (2) initial back-to-back **BTA/SRA personnel** trainings (in person) during year one of the contract • One (1) annual virtual **refresher** training after the implementation year
Medicaid Billing (Including Service Logging and LPHA)	• One (1) initial **administrator** training (virtual) • Two (2) initial **provider/end user** trainings (virtual) during year one of the contract

Supplemental Services- Basic and Advanced Data Analysis and Custom Reporting Services

Requests for Data Analysis and custom reporting services must be submitted via the EDPlan Help Desk. PCG will acknowledge receipt within one business day. These services require additional fees as indicated in Exhibit B.

Additional EDPlan Features

These additional EDPlan features can be added to support School System needs. Applicable user support and training is defined within each option.

☒ **EDPlan PaperClip.** PCG's PaperClip provides electronic storage of documents to allow direct access to signed documents within the system, maintaining compliance while decreasing the need for paper document storage.

- Includes additional storage of 1GB per contract term .
- No additional user support or training provided.

☒ **EDPlan Electronic LPHA Referral Module.** Allows districts to digitally track LPHA referral dates and signatures across several service areas. Providers can create a proposed LPHA referral document for a student, which then triggers an alert to a pre-defined LPHA approver notifying them a referral is ready for review. The approver can electronically access the proposed referral document and then approve/reject the referral as appropriate. All finalized electronic LPHA referral documents and events are stored historically in a student's record.

☒ **EDPlan Translation for 504.** EDPlan Translation currently offers real-time document translation into 6 languages (Spanish, Chinese Simplified, Russian, Vietnamese, Arabic, and Portuguese). By activating this feature, the parties acknowledge and understand that EDPlan Translation uses third party Google Translate functionality. PCG and Google disclaim all warranties, make no representations, and assume no liability for the accuracy or reliability of the translation provided by the Google Translate functionality. Translations are provided 'as is' to the School System. PCG acknowledges that it has executed a contractual agreement with Google concerning confidentiality of all data. School System is instructed to visit Google's Cloud Translation website at www.cloud.google.com for Google's Terms of Service, which govern all use of Google Translate.

- *Documents.* EDPlan Translation is available for the following documents:
    - Accommodation Plan
    - Accommodation Plan Determination
    - Eligibility/Non-Eligibility Determination
    - Invitation to Conference
    - Special Education to 504 Referral
    - Parent Consent for Evaluation/Reevaluation
    - Student and Parent Rights
    - Discontinuation of Services
    - Manifestation Determination Review
- A Translation Quick Reference guide is provided for support in using Translation functionality.

☐ **EDPlan Connect.** EDPlan Connect allows providers to set up parents/guardians with access to the Parent Portal and select the Individual Plan of Care (initial) they would like to send to the parent/guardian for signature. Access to the Parent Portal will be sent immediately, and once a document is selected to be sent to a parent/guardian for review, it will be sent overnight.

System Overview and School System Responsibilities

EDPlan is a web-based application. School System is not required to purchase or install any software on its computers except an Internet browser and Adobe Reader (each is available from the vendor).

PCG provides all hardware and software necessary for the operation of EDPlan. PCG provides all technology engineering services required to operate EDPlan. PCG provides all operational services needed for the appropriate functioning of EDPlan including but not limited to: Database software administration, database backup and recovery, system account management, system security, computer and network equipment maintenance, server software maintenance, application software maintenance. PCG provides all datacenter hosting services as required for the appropriate functioning of EDPlan including the provisioning of internet bandwidth as needed to make EDPlan appropriately accessible via the internet.

School System Responsibilities

School System is responsible for timely provision of the following:

1. Connection to the Internet for its Users
2. Computer hardware for its Users
3. Browser software and browser software configuration
4. Installation and configuration of the Adobe Acrobat Reader
5. System start up information as detailed in the "System Start–Up" Section below
6. Additional school data after Start-Up, as may be required by PCG
7. Access to school system staff
8. Designation of a consistent contract manager who will serve for the duration of the contract term.
9. Sites for all scheduled trainings with an appropriately configured computer for each trainee and one additional computer for the trainer.

System Startup

System Startup is the process by which a School System's service is established. The goal of System Startup is to import required information as much as possible into the module so that School System need not perform excessive manual data entry.

Where applicable, PCG has developed a standard set of import stubs for the data elements required by EDPlan Student Success Services. The main categories of data imports include module-specific information.

Often these data may be exported from existing database(s) or spreadsheets. It is the responsibility of School System to populate the database(s) and spreadsheets.
School System shall designate project manager(s) to coordinate internal School System activities of the project implementation and ongoing project maintenance and support. This project manager(s) will also serve as the primary contact person for PCG for greater efficiency across solutions.

EXHIBIT B
PRICING TERMS

Subject to the terms and conditions of this Agreement, School System shall pay PCG the following amounts:

Service Name	Implementation Fee	Year 1 July 1, 2024 – June 30, 2025	Year 2 July 1, 2025 – June 30, 2026	Year 3 July 1, 2026 – June 30, 2027
EDPlan 504 Module	$3,500	$13,500	$13,500	$14,175
Paperclip	N/A	$1,500	$1,500	$1,500
EDPlan 504 Translation for 504 Documents	N/A	$3,500	$3,500	$3,675
Medicaid Claiming - Related Services	N/A	6% contingency or a minimum of $15,000	6% contingency or a minimum of $15,000	6% contingency or a minimum of $15,000
Medicaid Claiming – Nursing Services	N/A	6% contingency + $2,500	6% contingency + $2,500	6% contingency + $2,500
Electronic Licensed Practitioner for the Healing Arts (LPHA) Referral Module	N/A	$3,500	$3,500	$3,500
Behavioral Threat Assessment Management & Suicide Safety Assessment	$7,500	$25,000	$25,000	$26,250

A. Fees

For each Renewal Term of the Agreement beginning with Year 3 (July 2026-June 2027), School System shall pay fees for non-Medicaid Claiming services and modules equal to 105% of the amount of the fees for the previous Renewal Term.

B. Additional Fees

The parties will negotiate in good faith concerning fees for additional training, features, or additional work under this Agreement that are not otherwise stated herein. Once the parties reach agreement, the fees will be memorialized through amendments to this Agreement. School System reserves the right to procure additional solutions and services from PCG. It is understood that these additional solutions and services are not included in scope of this Agreement and do not include training or installation costs for additional scope.

EXHIBIT C
MEDICAID SERVICES ADDITIONAL TERMS AND CONDITIONS

I. **COMPLIANCE CHECKLIST**. The parties agree that a separate Compliance Checklist will be executed by both parties within thirty (30) days of the effective date of this Agreement. Failure by School System to concurrently or subsequently execute a Compliance Checklist shall provide PCG the right to terminate the Medicaid services under this Agreement with less than thirty (30) days' notice.

II. **COMPENSATION, PAYMENT, AND BILLING PROCEDURE**

A. PCG shall invoice School System only after reimbursement has been received by School System. Each invoice shall state, at a minimum, the nature of the reimbursement received, the date of reimbursement, and the time period of the services provided by PCG.

B. If a reimbursement is disallowed after it was paid to School System, the following terms shall apply:

(i) For disallowances on claims attributable to errors or omissions caused by PCG, PCG will work with School System and take all reasonable actions to challenge the disallowance.

(ii) PCG shall not be obligated to reimburse School System for a disallowance if School System does not allow PCG to fully participate in the review and audit process.

(iii) PCG shall not be obligated to reimburse School System for any disallowance resulting from the errors, acts, or omissions of School System. PCG's billing on behalf of School System is in good faith and the data School System enters is processed by PCG on an 'as is' basis. School System warrants that service data entered into EasyTrac™ and supporting claiming data furnished is accurate and complete and that School System has appropriate records to substantiate claims submitted on their behalf by PCG.

(iv) Subject to the terms provided herein, in the event claims are disallowed as a result of PCG's errors or omissions and federal funds are returned and all avenues for contesting the disallowance have been exhausted, PCG shall only be obligated to refund School System an amount equal to and no greater than the amount paid by School System on the amount disallowed and not be subject to any further liability.

C. The terms of this Section shall survive expiration or termination of this Agreement. In particular, upon expiration or termination of the Agreement, PCG shall be entitled to payment for services provided prior to expiration or termination. The parties acknowledge that one or more invoices may be submitted by PCG after the expiration or termination date, following reimbursements received by School System on account of such services and School System shall be obligated to satisfy such invoices.

III. **RECORDS**. Upon expiration or termination of the Agreement PCG will provide a zip file via SFTP file transfer to include service log and claim support information in either text

format or excel format going back five (5) years from the date of expiration or termination. If additional years are required, a different file format, and/or a delivery method other than SFTP is requested, PCG will provide School System data in the requested date range and format and charge a per hour rate to do so. The hours to complete the work will priced at the prevailing PCG rates. School System shall be obligated to pay prior to delivery of the data.

IV. LIMITATION OF LIABILITY. No party shall be liable to the other party for consequential, incidental, exemplary, special or punitive damages resulting from or relating to the Agreement, whether based on breach of contract, tort, or otherwise, even if such party has been advised of the possibility of such damages. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY'S AGGREGATE LIABILITY UNDER THIS AGREEMENT TO THE OTHER PARTY EXCEED AN AMOUNT EQUAL TO THE TOTAL COMPENSATION PAID TO PCG PURSUANT TO THIS AGREEMENT. The forgoing limitations in this Section shall not apply to: claims for breach of confidentiality or proprietary rights; infringement of product marking; indemnification; or fraud.