

**Wallokill Central School District**

**Project Number:**

AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ by and between the  
**WALLKILL CENTRAL SCHOOL DISTRICT** (herein the "School District"), with its principal offices at 1500 Route 208, Administration Building, WALLKILL, NY 12589 and THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES OF ULSTER COUNTY, (herein "BOCES"), with its principal offices at 175 Route 32 North, New Paltz, New York 12561.

WHEREAS, the School District requires certain computer equipment, software and/or other services and such equipment, software and services constitute ordinary contingent expenses necessary for providing educational services to the School District; and

WHEREAS, BOCES is willing to provide certain computer equipment and services to the School District, subject to and upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, BOCES and the School District agree as follows:

1. BOCES shall complete the purchase of the computer equipment (the "Hardware") and software (the "Software") described in Exhibit A attached hereto and made a part hereof (the Hardware and the Software are sometimes referred to in this Agreement collectively as the "Equipment"). During the term of this Agreement, BOCES shall dedicate the Equipment to the School District's sole and exclusive use, subject to and upon the terms and conditions set forth in this Agreement.
2. BOCES shall finance the cost of the Equipment upon such terms as BOCES shall deem appropriate over a period of approximately **48** months, commencing on or about **January 15, 2026**

3. Following the purchase of the Equipment by BOCES, BOCES shall install the Equipment at the Participating Sites in accordance with the site survey for the network (the "Network") developed by BOCES in cooperation with the School District, which site survey provides for the general configuration of the Network. The School District shall fully cooperate with BOCES and the vendors and suppliers of the Equipment to implement the transactions contemplated by this Agreement and shall take all action, reasonably requested by BOCES to install the Network including the installation of the Equipment at each participating Site.

Without limiting the generality of the foregoing:

(a) During the term of this Agreement, the School District shall identify and designate a person or persons who shall be the contact person responsible for assisting BOCES (and the vendors or suppliers of the Equipment) with respect to the Project, (the "School District Designee") who shall, without limitation, assume lead responsibility for **BRIAN DEVINCENZI - delivery, installation, AND training; THOMAS HEIN - technical liaison**. The School District Designee shall act as the liaison between the School District and BOCES and any third party acting on behalf of or in conjunction with BOCES in connection with the installation and maintenance of Equipment as contemplated by this Agreement.

(b) During the term of this Agreement, representatives and designees of BOCES shall have access to the School District's facilities and telephones, including the Participating Sites, from 8:30 a.m. to 4:30 p.m. for the purpose of site preparation, equipment installation and ongoing work, training, support and maintenance as provided for in this Agreement. The School District acknowledges and agrees that access to such facilities and telephones may also be required outside of normal working hours which such access shall be granted by the School District upon reasonable notice.

(c) The School District shall be responsible for all site preparation necessary or desirable to consummate the transactions contemplated by this Agreement which shall include, without limitation:

- (i) To assure that all sites affected by the installation of the Equipment are ready for the installation of the Equipment including, without limitation, providing proper electrical service with power line conditioning, furniture, and appropriate climate control to protect the Equipment in accordance with the Vendor Agreements (as hereinafter defined), or as BOCES may reasonably specify.
- (ii) The removal or moving of all heavy furniture, file cabinets, desks and supplies, etc. as necessary.
- (iii) The detection, removal and/or abatement of asbestos, hazardous waste or other pollutants as required by the Vendor Agreements, or as BOCES may reasonably specify.
- (iv) Compliance with all laws, rules, regulations and ordinances, including, without limitation, obtaining all required work or building permits, consents and all rights of way.

(d) The School District shall comply with the requirements of all manufacturers, vendors or suppliers of the Equipment to keep each and every Equipment manufacturer's, vendor's and/or supplier's warranty and/or maintenance agreement in full force and effect.

4. Upon the School District's receipt of the Equipment, it shall bear the risk of all loss and damage to the Equipment and shall keep the Equipment at a location or locations as agreed to with BOCES, which shall in all cases be readily accessible by BOCES. The School District shall not alter, make additions to or utilize or interconnect any device to the Equipment without BOCES' prior written consent and the School District shall remove any such alterations,

attachments and additions and restore the Equipment to its unaltered condition before returning it to BOCES.

The School District further agrees to be bound by the following terms and conditions:

(a) The School District shall inform BOCES of the location of all Equipment and shall keep the Equipment at such locations. The School District shall not move the Equipment to another location without BOCES' prior written approval.

(b) The School District shall not make any alterations or additions to the Equipment without BOCES' prior written consent. An alteration is any change to the Equipment which deviates from the manufacturer's physical, mechanical, electrical or electronic design, whether or not additional devices or parts are used. The School District may not make any alteration or attachment that creates a safety hazard or renders maintenance of the Equipment impractical.

(c) The School District shall remove any alteration or attachment and restore the Equipment to its unaltered condition before returning it to BOCES.

(d) The School District shall furnish all labor and costs for unpacking and packing the Equipment.

(e) The School District shall not sublicense, assign, transfer or encumber any of the Equipment.

(f) The School District shall not distribute the Software to any third party.

(g) The School District shall not reverse assemble, reverse compile, or otherwise translate the Software.

(h) The School District shall not make copies of any handbooks, documents or manuals provided by BOCES, or any manufacturer, vendor or supplier of any of the Equipment without BOCES' prior written consent.

(i) The School District shall store the Software and all manuals and handbooks in a safe and secure area in the building where the Equipment is installed so that all original diskettes are readily accessible by BOCES.

(j) The School District shall not, without the prior written consent of BOCES, use the name, trade name, trademark or other designations of BOCES, or any manufacturer, vendor or supplier of the Equipment in any promotion or publication.

(k) The School District shall insure that anyone who uses the Equipment (either locally or remotely) does so only for the School District's authorized use.

(l) At the completion, expiration or termination of this Agreement, if BOCES agrees or is required to remove computers or other equipment from the Participating Sites or any other School District premises, the School District shall pay BOCES for all reasonable costs and expense of such removal and disposal. The reasonable cost of such removal and disposal will be determined by BOCES at the time of such removal and disposal.

5. During the term of this Agreement, BOCES will provide to the School District training, maintenance and coordination support services as provided for in Exhibit B attached hereto and made a part hereof. Such services may be provided by one or more BOCES' staff members and/or designee.

6. During the term of this Agreement, and for so long as the School District continues to comply with the requirements of each Equipment manufacturer, supplier or vendor to keep manufacturer's warranties and maintenance agreements in full force and effect, BOCES shall

facilitate replacement of defective Equipment in accordance with and pursuant to the terms and conditions of the applicable manufacturers, vendors or suppliers warranty, at no additional cost to the School District. Notwithstanding anything to the contrary contained in this Agreement, BOCES obligation pursuant to this Section 6 shall be subject to all of the terms and conditions set forth in Exhibit C attached hereto and made a part hereof.

7. (a) The School District shall promptly pay to BOCES all of BOCES' costs for purchasing the Equipment including without limitation, all costs and charges imposed upon BOCES pursuant to any purchase agreement and/or related agreement based on approximately 48 equal monthly payments. BOCES shall furnish the School District with a schedule of payments when the equipment costs have been determined by BOCES (the "Equipment Purchase Schedule"). In addition to the foregoing costs relating to the purchase of the Equipment, during the term of this Agreement, the School District shall pay BOCES any additional fees incurred by BOCES as a result of late payments including attorney's fees resulting from the School District's failure to perform as required. For the Academic Year commencing 2025, the Initial Payment as shown on Exhibit C shall be due and payable on **based on BOCES billing**, except where said schedule refers to estimated costs, actual costs shall be utilized if available and School District shall remain liable to BOCES and shall promptly pay BOCES for such actual costs when determined. Each Academic Year thereafter, the School District shall pay BOCES the Ongoing Payments provided for in Exhibit C, which shall be payable in 12 equal monthly installments on the 1<sup>st</sup> day of each month commencing in the month of July during the Academic Year except where said schedule refers to estimated costs, actual costs shall be utilized if available and School District shall remain liable to BOCES and shall promptly pay BOCES for such actual

costs when determined. For the purposes of this Agreement, "Academic Year" shall mean the period commencing on July 1 and ending on June 30 of the immediately following year.

Notwithstanding anything contained in this Section 7(a), Exhibit C or elsewhere in this Agreement to the contrary, in the event that the School District requests any modifications to the Equipment, including but not limited to the Equipment to be purchased and/or any material modification relating to the installation of the Hardware, and/or if the School District requests any modifications or enhancements to the Software, or additional training or service in excess of the training or services provided for in Exhibit B to this Agreement, the School District shall reimburse BOCES. Furthermore, any other changes with respect to the cost of software, hardware, Equipment upgrades or other services not specifically provided for in this Agreement shall be subject to separate agreement between the parties. If the installation of the Hardware and Software, or any of the Services need to be completed outside of regular business hours (after 4 p.m. weekdays, evening and/or weekends) by BOCES agents or employees, the School District shall be responsible for reimbursing BOCES for any additional costs incurred. By way of illustration and not of limitation, such costs would include, among other things, overtime rates and meal allowances as per the applicable BOCES collective bargaining agreements. Additional expenses will be charged to the School District at BOCES' cost.

(b) The School District shall pay all sums to BOCES provided for in this Agreement without any set-off, offset, abatement or deduction whatsoever which prohibition includes, without limitation, any sums which the School District may claim to be due it from BOCES under any other provision of this Agreement.

(c) Notwithstanding anything to the contrary contained in this Agreement, neither this Agreement nor any portion thereof, shall be conditioned upon the School District's eligibility for,

approval of, or receipt of E-Rate Discounts. BOCES does not warrant, represent, or guarantee that the School District shall be eligible for E-Rate Discounts, or benefits of whatsoever kind, at any specific level or for any specific equipment or services.

9. (a) In the event that the School District fails to make any payment or charge under this Agreement within 30 days after the date when any such payment or charge shall be due and payable, or if the School District fails to perform any other obligation under this Agreement, BOCES may, but is not obligated to, terminate this Agreement by giving notice to the School District. Upon such termination, the School District shall, at its own cost and expense, immediately peaceably surrender and return the Equipment to BOCES in good working order and condition, subject to ordinary wear and tear, packed for shipment in accordance with manufacturer specifications, freight prepaid and insured to BOCES or its assignee's authorized storage facility, or as otherwise directed by BOCES, and the School District shall be liable for and shall immediately pay BOCES upon demand any and all payments, costs and expenses hereunder which have become due and payable prior to the effective date of such termination. (b) In addition to the foregoing, upon such termination, the School District shall remain liable to BOCES and shall continue to pay BOCES all remaining payments to BOCES in accordance with the Schedule of Payments provided for in Exhibit C hereto.
10. (a) The term of this Agreement shall commence upon the execution hereof by BOCES and the School District and shall terminate on **1/15/2030**, unless terminated earlier in accordance with the terms and conditions of this Agreement. Subject to paragraph (c) below, after the School District has made all payments to BOCES, the School District

shall have the option to purchase (the "Purchase Option") the Equipment from BOCES for **an amount to be determined**.

(b) The Purchase Option shall be exercised by notice from the School District to BOCES not later than 30 days after the School District shall have made all payments required under this Agreement. If the School District does not exercise the Purchase Option, it shall, at its own cost and expense, return the Equipment to BOCES in good working order and condition, subject to ordinary wear and tear, packed for shipment in accordance with manufacturer specifications, freight prepaid and insured to BOCES' or its assignee's authorized storage facility, or as otherwise directed by BOCES.

(c) Notwithstanding anything contained in this Agreement, including this Section 10, to the contrary, in the event that this Agreement is terminated for any reason or the School District does not exercise the Purchase Option or is not entitled to exercise the Purchase Option, the School District shall, at BOCES' discretion, and at the School District's sole cost and expense:

- (i) remove all software and files from the Equipment and dispose of the Equipment in accordance with all applicable laws, rules and regulations, or
- (ii) return the Equipment to BOCES packed for shipment in accordance with manufacturer specifications, freight prepaid and insured, to BOCES' or its assignee's authorized storage facility, or as otherwise directed by BOCES, and promptly reimburse BOCES for all costs and expense of deleting all software and files from the Equipment and disposing of the Equipment in accordance with all applicable laws, rules and regulations.

11. During the term of this Agreement, BOCES, at its sole cost and expense, shall obtain and maintain fire and theft insurance covering all of the Equipment for its replacement cost.

12. (a) Except for the warranties and agreements expressly provided for herein, the Equipment is provided on an "as is" basis and there are no warranties, express or implied (including any regarding merchantability of fitness for a particular purpose), not specified herein, respecting services performed or equipment and materials furnished under this Agreement.

(b) Notwithstanding anything to the contrary contained in this Agreement including Section 12 (c) hereof, BOCES shall not be liable for any loss of profits, loss of use, or indirect, special, incidental or consequential damages of any kind in connection with or arising out of failure to furnish or furnishing of services, equipment, or materials or the performances or maintenance under this Agreement whether or not alleged in connection with tortious conduct or otherwise; no obligation or liability shall arise or flow out of BOCES rendering technical or other advice in connection with service, equipment or material; BOCES' maximum liability regardless of the form of action taken shall not in any event exceed the amounts actually due and received by BOCES pursuant to the Schedule of Payments provided for in Exhibit C attached hereto.

(c) BOCES is excused from performance and shall not be liable for any delay in whole or in part, caused by the occurrence of any contingency beyond the reasonable control of BOCES or any of its subcontractors or vendors or suppliers. These contingencies include, without limitation, war, sabotage, insurrection, riot, or other act of civil disobedience, act of public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof affecting the terms of this Agreement or otherwise, judicial action, labor dispute, accident, fire, explosion, flood, severe weather or other act of God, shortage of labor, fuel, raw material or machinery or technical or yield failure.

13. (a) BOCES and the School District each hereby represents, warrants and agrees

that:

- (i) the execution, delivery and performance of this Agreement and all of the transactions contemplated hereby have been duly authorized by it and no further corporate authority or action is required;
- (ii) this Agreement constitutes the valid and binding obligation of it, enforceable in accordance with the terms of this Agreement; and
- (iii) neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated hereunder conflicts with, or will result in a breach of any of the terms of or constitutes a default under any agreement or other instrument to which it is a party or any statute, law, rule or regulation which is applicable to such party.

(b) The School District further warrants, represents and agrees that:

- (i) its use of the Equipment, and all data and information which shall be input into the Equipment by the School District shall comply in all respects with all applicable laws, rules and regulations;
- (ii) any material placed in the Equipment shall not violate the trademark, copyright, trade name, performing right, right of publicity, or privacy, or any other right of any person or entity;
- (iii) upon receipt, it shall review each copy of the Agreements between BOCES and each of the manufacturers, vendors and/or suppliers of the Equipment or of any services to be provided by BOCES hereunder (the "Vendor Agreements"). During the term of this Agreement, the School District's use of the Equipment shall be in full compliance with such Vendor Agreements, and shall be subject to the terms, conditions and limitations contained in the Vendor Agreements. The School District shall indemnify and hold harmless BOCES from and against any and all losses, damages or expenses (including reasonable attorneys' fees) which BOCES may sustain by reason of, or arising out of, any breach by the School District of any of its obligations under this Agreement, including but not limited to any act or omission of the School District which shall result in any breach by BOCES of any of the Vendor Agreements;

- (iv) the use of the Equipment is essential to its proper, efficient and economic operation of the educational program to be supported by the Equipment, and is necessary to maintain its educational program.
  - (v) the costs and expenses arising under this Agreement constitute ordinary contingent expenses necessary for providing educational services; and
  - (vi) before executing this Agreement, the Board of Education of the School District has adopted a resolution determining that the costs and expenses arising under this Agreement are ordinary contingent expenses of the School District, and is in the best financial interests of the School District and stating the basis for such determination, and has delivered a true and accurate copy of such resolution to BOCES.
14. The School District may not assign this Agreement, the Equipment, or any of its rights or obligations hereunder or thereunder without the prior written consent of BOCES.
15. All notices, requests, demands, and other communications (collectively "Notices") given or made pursuant to this Agreement shall be made in writing and shall be deemed to have been duly given if sent to by certified or registered mail, return receipt requested, to the parties at the following addresses:

If to BOCES:

175 Route 32 North  
New Paltz, New York 12561  
Attention: Amanda Stokes

If to the School District

Wallkill Central School District  
1500 Route 208 ,  
WALLKILL, NY 12589

Contact Liaison:  
Attention: Anthony White, Superintendent of  
Schools

16. This Agreement sets forth the entire understanding of the parties with respect to its subject matter and supersedes all prior agreements, proposals, understandings, representations or warranties, written or oral, between them as to such subject matter. This Agreement may not be amended, nor may any provision hereof be modified or waived, except by an instrument in writing duly signed by each party hereto.
17. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.
18. Nothing in this Agreement expressed or implied is intended to or shall be construed to confer upon or give to any person or entity other than the parties hereto and their successors or permitted assigns any rights or remedies under or by reason of this Agreement.
19. Notwithstanding anything to the contrary contained in this Agreement or otherwise, neither this Agreement, nor any portion thereof, nor any of the transactions contemplated by this Agreement are conditioned upon the eligibility for, approval of, or receipt by the School District and/or BOCES of financial aid from the State Education Department of the State of New York or any other governmental agency (collectively "Aid"). BOCES does not warrant, represent or guarantee that the School District, or any of the transactions contemplated by this Agreement, are or shall be eligible for Aid.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date set forth in the first paragraph..

SCHOOL DISTRICT

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

Name & Title Thomas Frisbie, Board of Education President

(Please Print)

BOARD OF COOPERATIVE EDUCATIONAL  
SERVICES OF ULSTER COUNTY

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

Name & Title \_\_\_\_\_

(Please Print)