

PANORAMA EDUCATION – SERVICE ORDER



Primary Contact Information			
Client		Panorama Education, Inc. ("Panorama")	
<i>Client Legal Name ("Client")</i>	Clark County School District	<i>Company Name</i>	Panorama Education, Inc.
<i>Primary Contact, Title</i>	Dr. Mike Barton	<i>Primary Contact, Title</i>	Sandra Short, Director of Outreach
<i>Billing / Payment Address</i>	5100 W Sahara Ave	<i>Billing Address</i>	24 School St. 4 th Floor
<i>City / State / Zip</i>	Las Vegas, NV 89146	<i>City / State / Zip</i>	Boston, MA 02108
<i>Email</i>	bartowr@nv.ccsd.net	<i>Email</i>	sshort@panoramaed.com
<i>Phone</i>	(702) 799 2273	<i>Phone</i>	(617) 356 8123
<i>Billing Contact</i>	CCSD Purchasing		
<i>Billing Email Address</i>	bodetdm@nv.ccsd.net		
(1) Description of Services and (2) Fees			
Description of Services		Fees	
<u>Annual License Fees:</u> Panorama Platform License Fee: Student and Adult SEL & Well-Being Up to 340,000 participants Access to Platform and Support (as defined in the Terms and Conditions): Survey administration, analysis and reporting. <ul style="list-style-type: none"> • 300,000 student survey participants • 40,000 adult survey participants Project Management Includes dedicated Professional Services Manager who will work with the client's main point of contact to execute a successful project administration. <ul style="list-style-type: none"> • Develop project timeline • Manage setup and administration • Customize configurations • Coordinate rollout of reports Professional Development: Virtual Includes prep and digital access to materials: <ul style="list-style-type: none"> • 4 sessions (60-90 minutes each) 		Effective Date:	<u>12/11/2020</u>
		Contract Term: (From Effective Date)	1 year
		Annual License Fee:	\$ 761,000 / year
		Subtotal License Fee:	\$ 761,000
		Annual Total: (Due on Effective Date for Year 1)	\$ 761,000 / year
		Total Over Contract Term:	\$ 761,000

PANORAMA EDUCATION – SERVICE ORDER



Other Terms and Conditions (if any)		
Agreement		
The agreement by and between the Client and Panorama (this " <u>Agreement</u> ") consists of this Service Order (the " <u>SO</u> ") and the Terms and Conditions attached to the SO.		
Authorization		
By signing below, the parties hereto ACCEPT AND AGREE to this Agreement as of the last date executed.		
Client Signature: <i>Mike R. Barton</i>	Print Name, Title: Mike R. Barton	Date: 12 / 10 / 2020
Panorama Signature: <i>Katie Mallett</i>	Print Name, Title: Katie Mallett, COO	Date: 12 / 10 / 2020

BACKGROUND

Panorama is an education technology company that has developed a cloud-based platform-as-a-service that enables schools and school districts to analyze student and school data, measure social-emotional learning, and design and implement survey programs for students, staff and parents (the “Platform”). Client and Panorama have entered into the SO and, from time to time hereafter, Client and Panorama may enter into additional Service Orders (“Future SOs”) pursuant to which Client will purchase rights to use the Platform and receive services. These Terms and Conditions are incorporated by reference into the SO to create this Agreement and will be incorporated by reference into each Future SO to create separate future agreements for the rights and services described in the applicable Future SO, in each case to the exclusion of any other terms or conditions that either party seeks to impose or incorporate or that are implied by course of dealing.

1 RIGHT TO USE PLATFORM

1.1 Platform. Subject to the terms and conditions of this Agreement, Panorama hereby grants Client the limited, nonexclusive, nontransferable, non-sublicenseable right to access and use the Platform via the Internet during the Term solely for Client’s use (including use by Client’s students, staff and parents, as described in the SO, if applicable (“Authorized Users”).

1.2 Limitations. The following limitations and restrictions will apply to the Platform:

(a) Client will not provide access to the Platform to any person who is not an employee or contractor of Client or an Authorized User.

(b) Except as expressly permitted hereunder, Client will not and will not permit or authorize any third party to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Platform; (ii) modify, translate or create derivative works based on the Platform; (iii) copy, rent, lease, distribute, pledge, assign or otherwise transfer or allow any lien, security interest or other encumbrance on the Platform; (iv) use the Platform for timesharing or service bureau purposes or otherwise for the benefit of a third party; (v) hack, manipulate, interfere with or disrupt the integrity or performance of or otherwise attempt to gain unauthorized access to the Platform or its related systems, hardware or networks or any content or technology incorporated in any of the foregoing; or (vi) remove or obscure any proprietary notices or labels of Panorama or its suppliers on the Platform.

2 OWNERSHIP; RESERVATION OF RIGHTS

2.1 Client Ownership. Client owns (a) any data Client inputs into the Platform that identifies Client or its students, staff or parents (including Authorized Users) and any Survey responses provided by Client, its students, staff or parents (including Authorized Users) (“Data”), and (b) any other data and content provided by Client or Authorized Users to Panorama or input into the Platform, such as Survey questions (“Other Data”), and, together with the Data, “Client Data”). Client hereby grants to Panorama a non-exclusive, worldwide, royalty-free, fully paid up, sublicenseable (through multiple tiers) (i) right and license during the Term to copy, distribute, display and create derivative works of and use the Client Data to perform Panorama’s obligations under this Agreement; (ii) perpetual, irrevocable right and license to copy, modify and use Client Data to create aggregated, non-personally identifiable data or information (“Blind Data”) and copy, distribute, display, create derivative works of and use the Blind Data for benchmarking, research or development purposes, including published research, and (iii) perpetual, irrevocable right and license to copy, distribute, display and create derivative works of and use Other Data for any and all purposes, in any form, media or manner. Client reserves any and all right, title and interest in and to the Client Data other than the licenses therein expressly granted to Panorama under this Agreement.

2.2 Panorama Ownership. Panorama retains all right, title and interest in and to the Platform, all copies or parts thereof (by whomever produced) and all intellectual property rights therein. Panorama grants no, and reserves any and all, rights other than the rights expressly granted to Client under this Agreement with respect to the Platform.

2.3 Feedback. Client may from time to time provide suggestions, comments for enhancements or functionality or other feedback (“Feedback”) to

Panorama with respect to the Platform. Panorama has full discretion to determine whether to proceed with development of the requested enhancements, features or functionality. Client hereby grants Panorama a royalty-free, fully paid-up, worldwide, transferable, sublicenseable, irrevocable, perpetual license to (a) copy, distribute, transmit, display, perform, and create derivative works of the Feedback in whole or in part; and (b) use the Feedback in whole or in part, including without limitation, the right to develop, manufacture, have manufactured, market, promote, sell, have sold, offer for sale, have offered for sale, import, have imported, rent, provide and lease products or services that practice or embody, or are configured for use in practicing, the Feedback in whole or in part.

2.4 Client Responsibilities. Client will (a) use commercially reasonable efforts to prevent unauthorized access to or use of the Platform and notify Panorama promptly of any such unauthorized access or use, and (b) use the Platform only in accordance with the documentation and applicable laws and regulations.

2.5 Data Security. Panorama will implement and maintain reasonable administrative, physical and technical safeguards (“Safeguards”) which attempt to prevent any collection, use or disclosure of, or access to Client Data that this Agreement does not expressly authorize, including, without limitation, an information security program that meets commercially reasonable industry practice to safeguard Client Data. Such information security program includes: (a) physical security of all premises in which Client Data will be processed and/or stored; and (b) reasonable precautions taken with respect to the employment of, access given to, and education and training of any and all personnel furnished or engaged by Panorama to perform any part of the services hereunder.

2.6 Privacy Policy. Panorama cares deeply about privacy, and we recognize that it is important to the educators, students, and parents we serve. Please see our Privacy Policy at <https://www.panoramaed.com/privacy> for more information about how we protect the privacy of those we serve.

2.7 Right to Data Destruction. If requested by the Client, during or after the term of this agreement, Panorama will make reasonable efforts to destroy or otherwise render Client Data inaccessible.

3 FEES; PAYMENT TERMS

3.1 Fees; Payment Terms. Unless otherwise indicated on the SO, Client will pay all fees within thirty (30) days of the invoice date. If payment of any fee is not made when due and payable, a late fee will accrue at the rate of the lesser of one and one-half percent (1.5%) per month or the highest legal rate permitted by law and Client will pay all reasonable expenses of collection. In addition, if any past due payment has not been received by Panorama within thirty (30) days from the time such payment is due, Panorama may suspend access to the Platform until such payment is made.

3.2 Net of Taxes. All amounts payable by Client to Panorama hereunder are exclusive of any sales, use and other taxes or duties, however designated, including without limitation, withholding taxes, royalties, know-how payments, customs, privilege, excise, sales, use, value-added and property taxes (collectively “Taxes”). Client will be solely responsible for payment of any Taxes, except for those taxes based on the income of Panorama. Client will not withhold any Taxes from any amounts due Panorama.

4 TERM, TERMINATION

4.1 Term. The term of this Agreement will commence on the Effective Date and, unless earlier terminated in accordance with this Section 4, will continue through the date set forth on the SO (the “Term”).

4.2 Termination; Effect of Termination. In addition to any other remedies it may have, either party may terminate this Agreement if the other party breaches any of the terms or conditions of this Agreement and fails to cure such breach within thirty (30) days’ notice (or ten (10) days in the case of nonpayment) after receiving notice thereof. Upon any termination of this Agreement, Client will pay in full for the use of the Platform up to and including the last day on which the Platform is provided. Upon any termination of this Agreement for any reason, Panorama may, but is not obligated to, in its sole discretion and without delivery of any notice to Client, delete any Client Data stored or otherwise archived on the Platform or on Panorama’s network. Upon termination of this Agreement, all rights granted

Terms and Conditions

hereunder and all obligations of Panorama to provide the Platform will immediately terminate and Client will (a) cease use of the Platform; and (b) return or destroy all other copies or other embodiments of Panorama's Confidential Information.

4.3 Survival. Upon expiration or termination of this Agreement, all obligations in this Agreement will terminate, provided that Sections 2 (Ownership; Reservation of Rights), 3 (Fees; Payment Terms), 4.2 (Termination; Effect of Termination), 4.3 (Survival), 5 (Confidentiality), 6.2 (Disclaimer), 7 (Limitations of Liability; Indemnification), and 8 (General) will survive.

5 CONFIDENTIALITY

5.1 As used herein, "Confidential Information" means, subject to the exceptions set forth in the following sentence, any information or data, regardless of whether it is in tangible form, disclosed by either party (the "Disclosing Party") that the Disclosing Party has either marked as confidential or proprietary, or has identified in writing as confidential or proprietary within thirty (30) days of disclosure to the other party (the "Receiving Party"); provided, however, that a Disclosing Party's business plans, strategies, technology, research and development, current and prospective Clients, billing records, and products or services will be deemed Confidential Information of the Disclosing Party even if not so marked or identified. Panorama's Confidential Information includes, without limitation, the Platform and the terms of this Agreement. Information will not be deemed "Confidential Information" if such information: (a) is known to the Receiving Party prior to receipt from the Disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (b) becomes known (independently of disclosure by the Disclosing Party) to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; or (c) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the Receiving Party. Each party acknowledges that the Confidential Information constitutes valuable trade secrets and proprietary information of a party, and each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and it will not disclose, or permit to be disclosed, the same directly or indirectly, to any third party without the other party's prior written consent, except as otherwise permitted hereunder. Each party will use reasonable measures to protect the confidentiality and value of the other party's Confidential Information. Notwithstanding any provision of this Agreement, either party may disclose the terms of this Agreement, in whole or in part (i) to its employees, officers, directors, professional advisers (e.g., attorneys, auditors, financial advisors, accountants and other professional representatives), existing and prospective investors or acquirers contemplating a potential investment in or acquisition of a party, sources of debt financing, acquirers and/or subcontractors who have a need to know and are legally bound to keep such Confidential Information confidential by confidentiality obligations or, in the case of professional advisors, are bound by ethical duties to keep such Confidential Information confidential consistent with the terms of this Agreement; and (ii) as reasonably deemed by a party to be required by law (in which case each party will provide the other with prior written notification thereof, will provide such party with the opportunity to contest such disclosure, and will use its reasonable efforts to minimize such disclosure to the extent permitted by applicable law). Each party agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. In the event of actual or threatened breach of the provisions of this Section, the non-breaching party will be entitled to seek immediate injunctive and other equitable relief, without waiving any other rights or remedies available to it. Each party will promptly notify the other in writing if it becomes aware of any violations of the confidentiality obligations set forth in this Agreement. Upon the termination of this Agreement, each Receiving Party agrees to promptly return to the Disclosing Party or destroy all Confidential Information of the Disclosing Party that is in the possession of the Receiving Party and to certify the return or destruction of all such Confidential Information and embodiments thereof.

6 REPRESENTATIONS, WARRANTIES AND DISCLAIMER

6.1 Representations and Warranties. Each party represents and warrants to the other party that (a) such party has the required power and authority to enter into this Agreement and to perform its obligations hereunder, (b) the

execution of this Agreement and performance of its obligations thereunder do not and will not violate any other agreement to which it is a party, and (c) this Agreement constitutes a legal, valid and binding obligation when signed by both parties. Client represents and warrants that it has the right to provide the Client Identifying Data and Client Content for the purposes contemplated by this Agreement.

6.2 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE PLATFORM IS PROVIDED ON AN "AS-IS" BASIS AND PANORAMA DISCLAIMS ANY AND ALL WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. ALL OTHER EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. EACH PARTY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. NEITHER PARTY WARRANTS AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE PRODUCTS OR SERVICES PROVIDED BY SUCH PARTY OR AGAINST INFRINGEMENT. NEITHER PARTY WARRANTS THAT THE PRODUCTS OR SERVICES PROVIDED BY SUCH PARTY ARE ERROR-FREE OR THAT OPERATION OF SUCH PARTY'S PRODUCTS OR SERVICES WILL BE SECURE OR UNINTERRUPTED. NEITHER PARTY WILL HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF THE OTHER PARTY TO ANY THIRD PARTY.

7 LIMITATIONS OF LIABILITY; INDEMNIFICATION

7.1 Disclaimer of Consequential Damages. THE PARTIES HERETO AGREE THAT, NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, EXCEPT FOR (A) CLIENT'S USE OF THE PLATFORM OTHER THAN EXPRESSLY PERMITTED BY SECTION 1 (RIGHT TO USE PLATFORM) ABOVE, (B) EITHER PARTY'S BREACH OF SECTION 5 (CONFIDENTIALITY) ABOVE, AND (C) LIABILITY ARISING FROM A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 7.4 AND 7.5 BELOW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, RELIANCE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, LOST OR DAMAGED DATA, LOST PROFITS OR LOST REVENUE, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF A PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY THEREOF.

7.2 General Cap on Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EXCEPT FOR (A) CLIENT'S USE OF THE PLATFORM OTHER THAN EXPRESSLY PERMITTED BY SECTION 1 (RIGHT TO USE PLATFORM) ABOVE, (B) EITHER PARTY'S BREACH OF SECTION 5 (CONFIDENTIALITY) ABOVE, AND (C) LIABILITY ARISING FROM A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 7.4 AND 7.5 BELOW, AS APPLICABLE, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S LIABILITY FOR ALL CLAIMS ARISING UNDER OR RELATING TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE AGGREGATE FEES PAID BY CLIENT TO PANORAMA UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

7.3 Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF

LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THEY HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

7.4 Indemnification by Panorama. Except for liability for which Client is responsible under Section 7.5, Panorama will indemnify, defend and hold Client and the officers, directors, agents, and employees of Client ("Client Indemnified Parties") harmless from settlement amounts and damages, liabilities, penalties, costs and expenses ("Liabilities") that are payable to any third party or incurred by the Client Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegation that the use of the Platform in accordance with the terms and conditions of this Agreement infringes such third party's copyright or results in a misappropriation of such third party's trade secrets. Panorama will have no liability or obligation under this Section 7.4 if such Liability is caused in whole or in part by (a) modification of the Platform by any party other than Panorama without Panorama's express consent; (b) the combination, operation, or use of the Panorama with other product(s), data or services not provided by Panorama where the Platform would not by itself be infringing; or (c) unauthorized or improper use of the Platform. If the use of the Platform by Client has become, or in Panorama's opinion is likely to become, the subject of any claim of infringement, Panorama may at its option and expense (i) procure for Client the right to continue using the Platform as set forth hereunder; (ii) replace or modify the Platform to make it non-infringing so long as the Platform has at least equivalent functionality; (iii) substitute an equivalent for the Platform or (iv) if options (i)-(iii) are not available on commercially reasonable terms, terminate this Agreement. This Section 7.4 states Panorama's entire obligation and Client's sole remedies in connection with any claim regarding the intellectual property rights of any third party.

7.5 Indemnification by Client. Client will indemnify, defend and hold Panorama and the officers, directors, agents, and employees of Panorama ("Panorama Indemnified Parties") harmless from Liabilities that are payable to any third party or incurred by the Panorama Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegation arising from or related to (a) any use by Client or Authorized Users of the Platform in violation of this Agreement or (b) the Client Data.

7.6 Indemnification Procedure. If a Client Indemnified Party or a Panorama Indemnified Party (each, an "Indemnified Party") becomes aware of any matter it believes it should be indemnified under Section 7.4 or Section 7.5, as applicable, involving any claim, action, suit, investigation, arbitration or other proceeding against the Indemnified Party by any third party (each an "Action"), the Indemnified Party will give the other party (the "Indemnifying Party") prompt written notice of such Action. The Indemnified Party will cooperate, at the expense of the Indemnifying Party, with the Indemnifying Party and its counsel in the defense and the Indemnified Party will have the right to participate fully, at its own expense, in the defense of such Action with counsel of its own choosing. Any compromise or settlement of an Action will require the prior written consent of both parties hereunder, such consent not to be unreasonably withheld or delayed.

8 GENERAL

Client may not remove or export from, or use from outside, the United States or allow the export or re-export of the Platform or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Neither party may assign this Agreement by operation of law or otherwise or assign or delegate its rights or obligations under the Agreement without the other party's prior written consent; provided however, that either party may assign this Agreement to an acquirer of or successor to all or substantially all of its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any assignment or

attempted assignment by either party otherwise than in accordance with this Section 8 will be null and void. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and a party does not have any authority of any kind to bind the other party in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. Client acknowledges that any unauthorized use of the Platform will cause irreparable harm and injury to Panorama for which there is no adequate remedy at law. In addition to all other remedies available under this Agreement, at law or in equity, Client further agrees that Panorama will be entitled to injunctive relief in the event Client uses the Platform in violation of the limited license granted herein or uses the Platform in any way not expressly permitted by this Agreement. All notices under this Agreement will be in writing and sent to the recipient's address set forth in the SO and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. Each party agrees that it will not, without prior written consent of the other, issue a press release regarding their business relationship. Notwithstanding anything herein to the contrary, Panorama may identify Client and the relationship between Panorama and Client in Panorama's marketing collateral, website, and other promotional and marketing materials. Each party will be excused from performance for any period during which, and to the extent that, it is prevented from performing any obligation or service, in whole or in part, as a result of a cause beyond its reasonable control and without its fault or negligence, including, but not limited to, acts of God, acts of war, epidemics, fire, communication line failures, power failures, earthquakes, floods, blizzard, or other natural disasters (but excluding failure caused by a party's financial condition or any internal labor problems (including strikes, lockouts, work stoppages or slowdowns, or the threat thereof)) (a "Force Majeure Event"). Delays in performing obligations due to a Force Majeure Event will automatically extend the deadline for performing such obligations for a period equal to the duration of such Force Majeure Event. Except as otherwise agreed upon by the parties in writing, in the event such non-performance continues for a period of thirty (30) days or more, either party may terminate this Agreement by giving written notice thereof to the other party. Upon the occurrence of any Force Majeure Event, the affected party will give the other party written notice thereof as soon as reasonably practicable of its failure of performance, describing the cause and effect of such failure, and the anticipated duration of its inability to perform. This Agreement will be governed by the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provisions. For all disputes relating to this Agreement, each party submits to the exclusive jurisdiction of the state and federal courts located in Boston, Massachusetts and waives any jurisdictional, venue, or inconvenient forum objections to such courts.

ADDENDUM TO PANORAMA EDUCATION – SERVICE ORDERS TERMS AND CONDITIONS

This Addendum to Panorama Education-Service Order Terms and Conditions (“Addendum”) shall be appended to and form a part of the Service Orders, should they be approved, effective December 11, 2020 and effective November 3, 2020 (collectively, the “Agreements”), and, to the extent this Addendum is considered an Amendment of the November 3, 2020 Service Order, and as an Addendum to the anticipated December 11, 2020 Service Order, is made in consideration for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged. Should the December 11, 2020, Service Order fail approval or contract formation for any reason, Panorama hereby agrees to delete all data supplied by Client.

1. The Agreement by and between Clark County School District (“CCSD” or “Client”) consists of the Service Orders (“SOs”), the Terms and Conditions attached to the SOs, and this Addendum to Panorama Education – Service Orders Terms and Conditions (“Addendum”).
2. The Description of Services in the Service Orders will be amended to also include data transfer, survey administration, analysis, and reporting of CCSD employees.
3. Section 2.1 of the Terms and Conditions shall be deleted in its entirety and the following Section 2.1 shall be inserted in its place:

“2.1 Client Ownership. Client owns (a) any data Client inputs into the Platform that identifies Client or its students, staff or parents (including Authorized Users) and any Survey Responses provided by Client, its students and content provided by Client, its students, staff or parents (including Authorized Users (“Data”) and (b) any other data and content provided by Client or Authorized Users to Panorama or input into the Platform, such as Survey Questions (“Other Data” and, together with the Data, “Client Data”). Client Data that does not contain personally identifiable data or information, as defined by the FERPA statutes and regulations and as more particularly

described in Section 2.6, as amended, is referred to herein as “Blind Data.” Client data that does contain personally identifiable data or information, as defined by the FERPA statutes and regulations, or other Confidential Information, as defined herein and as described in Section 2.6, as amended, shall be referred to herein as “Personal Data.” Client hereby grants to Panorama a non-exclusive worldwide, royalty-free fully paid up (i) right and license during the Term to copy, distribute, display and create derivative works of and use the Client Data to perform Panorama’s obligations under this Agreement; (ii) perpetual, irrevocable right and license to copy, modify and use Blind Data and to copy, distribute, display, create derivative works of and use the Blind Data for benchmarking, research or development purposes, including published research.

Notwithstanding the foregoing, Panorama shall be bound by and adhere to all Regulations and Policies of the Clark County School District, including, but not limited to, those regulations that limit or preclude the right to use Client Data for marketing or other commercial purposes.

4. Section 2.5 shall be deleted in its entirety and the following Section 2.5 shall be inserted in its place:

“2.5 Data Security. Panorama will implement and maintain reasonable administrative, physical and technical safeguards (“Safeguards”) for the purpose of preventing any collection, use or disclosure of, or access to Client Data, except as may be specifically authorized by Client herein, including, without limitation, an information security program that meets commercially reasonable industry practice to safeguard Client Data, including but not limited to Personal Data in accordance with the requirements of FERPA. Such information security program includes: (a) physical security of all premises in which Client Data will be processed and/or stored; and (b) reasonable precautions taken with respect to the employment of, access given to, and education and training of any and all personnel furnished or engaged by Panorama to perform any part of the services hereunder.”

5. Section 2.6 shall be amended to add the following:

The current paragraph under Privacy Policy will be numbered 4.1

4.2 In addition to the foregoing, Panorama agrees to apply reasonable administrative, physical, and technical Safeguards and privacy protections to the employee data and surveys. CCSD will provide the following employee data to Panorama, which is publicly available information: school name, school identification number, employee name, employee work email, employee role/job title. If an employee takes a survey, they may voluntarily input their employee identification number, gender, and race.

4.3 In addition to the foregoing, Panorama agrees that it will protect the privacy of student information:

- a. Protect student education records and other personally identifiable and/or confidential information in accordance with the Family Education Rights and Privacy Act ("FERPA").
20 U.S.C. §1232g; 34 C.F.R. Part 99; NRS 392.029; NRS 388.272.
 - Personally identifiable information has the same meaning as defined under FERPA at C.F.R. § 99.3.
 - Education record has the same meaning as defined under FERPA at C.F.R. § 99.3.
 - Deidentified data, as used in this Agreement, means data from which all personally identifiable information has been removed or obscured so that a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, would not be able to identify any individual student or parent with reasonable certainty. 34 C.F.R. § 99.31(b)(1); 34 C.F.R. § 99.3.
- b. Protect student information under the Protection of Pupil Rights Amendment ("PPRA"). 20 U.S.C. §1232h; 34 C.F.R. Part 98; NRS 392.029; NRS 388.272.

- PPRA applies to certain surveys, analysis, or evaluations that ask students to respond in any manner that reveals information concerning: (1) political affiliations or beliefs of the student or the student's family; (2) mental or psychological problems of the student or the student's family; (3) sex behavior or attitudes; (4) illegal, anti-social, self-incriminating, or demeaning behavior; (5) critical appraisals of other individuals with whom respondents have close family relationships; (6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, or ministers; (7) religious practices, affiliations, or beliefs of the student or student's parent; or (8) income. 20 U.S.C. §1232h.
 - PPRA allows for student participation in certain surveys, analysis, or evaluations that concern one of eight (8) protected areas if parents are provided notice of the survey and are given an opportunity to opt the student out of participation in the survey. 20 U.S.C. §1232h(c)(2); 34 C.F.R. Part 98. CCSD will provide parents with notice and an opportunity to opt out of the Panorama Student Competency and Well-Being survey.
- c. FERPA generally requires written consent from parents to release personally identifiable student information from education records. However, FERPA permits an educational agency to disclose personally identifiable information from an education record of a student without consent if the disclosure meets one or more of the conditions outlined in 20 U.S.C. § 1232g. The FERPA studies exception applies to the Panorama Student Competency and Well-Being survey.
- d. The studies and services conducted pursuant to this Agreement will be done in accordance with FERPA. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. Part 99; NRS 392.029; NRS 388.272.

- e. The purpose and scope of the studies is to improve programs and instruction to enhance student achievement in education. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. § 99.31(a)(6)(i).
In order to enhance student learning, CCSD will use the Panorama platform to conduct the Panorama Student Competency and Well-Being survey to gather information regarding students' social emotional well-being. Student well-being is critical to academic success, mental health, economic prosperity, and relationship success.
- f. The following data will be released to Panorama under this Agreement: student name, student identification number, student email address, school of attendance, grade level, date of birth, gender, race, and student's responses on the Panorama Student Competency and Well-Being survey. Panorama will also obtain school roster data. There will be a Panorama survey for students in Grades 3-5 and a separate Panorama survey for students in Grades 6-12. Students will create their own Panorama account by providing their name, student identification number, student email address, school of attendance, grade level, date of birth, gender, and race. Students will then use the platform to respond to the Panorama Student Competency and Well-Being survey. Unless a student or parent opts out, teachers may assist students with creating an account.
- g. Panorama will not collect, use, or disclose student personally identifiable information except as permitted by this Agreement or as required by law without approval of CCSD. 20 U.S.C. § 1232g; 34 C.F.R. § 99.31(a)(6)(iii)(C)(2); NRS 392.029; NRS 388.272.
- h. Panorama will not conduct any other survey, analysis, or evaluation except as permitted by this Agreement or as required by law without approval of CCSD. 20 U.S.C. § 1232h; 34 C.F.R. Part 98; NRS 392.029; NRS 388.272.
- i. Panorama will conduct the services in a manner that does not permit personal identification of parents and students by anyone other than representatives of Panorama

with legitimate interests. 34 C.F.R. § 99.31(a)(6)(iii)(C)(3).

- j. Panorama will not (i) use student personally identifiable information for advertising purposes; (ii) use student personally identifiable information to amass a profile about a student except in furtherance of the services provided under this Agreement; or (iii) sell student personally identifiable information.
- k. Panorama agrees that it will destroy all student personally identifiable information within its possession, custody, or control within sixty (60) days following the time that such information is no longer needed for the purposes for which this Agreement was conducted or upon notice from CCSD. Upon destruction of the information, Panorama will promptly certify in writing to CCSD that this destruction has occurred. Nothing in the Agreement authorizes Panorama to maintain student personally identifiable information beyond this time period without the consent of CCSD, which shall not unreasonably be withheld.
U.S.C. § 1232g; 34 C.F.R. § 99.31(a)(6)(iii)(C)(4); NRS 392.029; NRS 388.272.
- l. Notwithstanding the foregoing, and consistent with FERPA and PPRA, Panorama may use and disclose deidentified data (as defined above); provided, however, that Panorama agrees not to attempt to re-identify the data and not to disclose such data to any third party unless that third party agrees not to attempt to re-identify the data.
- m. CCSD has the right to conduct audits or other monitoring activities of Panorama's policies, procedures, and systems, subject to Panorama's agreement for frequency and schedule, not to be unreasonably withheld.
- n. Panorama acknowledges that it provides training for its employees about FERPA and PPRA and how to protect education records, and that it has appropriate disciplinary policies for employees that violate FERPA and PPRA.

- o. Each party is independently required to comply with the requirements of FERPA and PRRA.

Each party agrees that it shall not be liable for any violation of any provision of FERPA or PPRA directly or indirectly relating to, arising out of, or resulting from, or in any manner attributable to, the actions of the other party.

- p. Panorama acknowledges that it has a sound data security plan and data stewardship program.
6. Section 4.3 of the Terms and Services shall be amended to include 10 (Insurance) as part of the survival clause.
7. The first full sentence of Section 5.1 shall be amended to state as follows:
- “5.1 As used herein, “Confidential Information” means, subject to the exceptions set forth in the following sentence, any information or data regardless of whether it is in tangible form, disclosed by either party (the “Disclosing Party”) that the Disclosing Party has either marked as confidential or proprietary, or has identified in writing as confidential or proprietary within thirty (30) days of disclosure to the other Party (“the “Receiving Party”); provided, however, that a Disclosing Party’s business plans, strategies, technology, research and development, current and prospective Clients, billing records, products or services and Personal Data as defined in Section 2.1, will be deemed Confidential Information of the Disclosing Party even if not so marked or identified.”
8. The fourth full sentence of Section 5.1 shall be amended to state as follows:
- “Each Party acknowledges that the Confidential Information constitutes valuable trade secrets, proprietary information or other information of which the disclosure is prohibited by law, and each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and as required or allowed by law and each party will not disclose or permit to be disclosed the same directly or indirectly to any third party without the other party’s prior written consent.”

9. The first full sentence of Section 7.4 shall be amended to state as follows:

“Except for the liability for which Client is responsible under Section 7.5, Panorama will indemnify, defend and hold Client and the officers, directors, agents, Trustees and Employees of Client (“Client Indemnified Parties”) harmless from settlement amounts, judgments, arbitration awards, damages, liabilities, penalties, costs and expenses (“Liabilities”) that are payable to any third party or incurred by the Client Indemnified Parties (including reasonable attorneys’ fees) arising from any third party claim, demand or allegations which are caused by Panorama, including, without limitation, alleged copyright infringement or misappropriation of the third party’s trade secrets, except as limited herein.”

10. Section 8 of the Terms and Conditions shall be amended by deleting the following sentence in its entirety: “In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys’ fees.”

11. The last sentence of Section 8 of the Terms and Conditions shall be amended as follows: “For all disputes relating to this Agreement, each party submits to the exclusive jurisdiction of the state and federal courts located in Clark County, Nevada and waives any jurisdictional, venue, or inconvenience forum objections to such courts.”

12. The Terms and Conditions shall be amended to insert a new Section 9 which will be titled “INSURANCE” and include the following language:

10 INSURANCE

10.1 Insurance: Panorama shall be responsible for maintaining insurance coverage in force for the life of the Agreement. The insurance company(ies) must have an A.M. Best rating of A- VI or better and be licensed to write such insurance in the state of Nevada. Prior to commencement of services provide the CCSD certificate(s) of insurance verifying the coverage. The insurance carrier shall give CCSD a thirty (30) day written advance notice of any termination, expiration, or any and

all changes in coverage. Deductibles and self-insurance retentions shall be declared in the certificate(s) of insurance. All deductibles and retentions are the sole responsibility of Panorama to pay. Certificates shall verify the following coverages:

(a) Professional Liability (Errors & Omissions) with minimum limits of at least \$1,000,000 per occurrence. The insurance required above may be provided under primary policies or by a combination of primary and excess policies.

(b) Cyber Liability with minimum amounts of at least \$1,000,000 per occurrence for claims involving privacy violations, information theft, intentional and/or unintentional release and/or extortion.

(c) Reference your certificate of insurance to the Clark County School District, Attention: Purchasing Department, 4212 Eucalyptus Avenue, Bldg. #7, Las Vegas, NV 89121, and indicate the PS number.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby:

CLARK COUNTY SCHOOL DISTRICT

PANORAMA

By Steve Staggs

By Katie Mallett

Purchasing Administrator

Authorized Company Representative

Printed Name Steve Staggs

Printed Name Katie Mallett

Title Purchasing Director

Title COO

Date 12 / 07 / 2020

Date 12 / 07 / 2020

TITLE	Panorama Service Order - Clark County School District
FILE NAME	Panorama Educatio...hole District.pdf
DOCUMENT ID	6cb5862440eb2fb5f5894b481d3f08a146007757
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Completed

Document History



12 / 11 / 2020
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Sent for signature to Mike Barton (bartowr@nv.ccsd.net) and Katie Mallet (contracts@panoramaed.com) from sshort@panoramaed.com



12 / 11 / 2020
02:02:48 UTC

Viewed by Mike Barton (bartowr@nv.ccsd.net)



12 / 11 / 2020
02:03:43 UTC

Signed by Mike Barton (bartowr@nv.ccsd.net)



12 / 11 / 2020
02:24:04 UTC

Viewed by Katie Mallet (contracts@panoramaed.com)



12 / 11 / 2020
02:24:25 UTC

Signed by Katie Mallet (contracts@panoramaed.com)



COMPLETED

12 / 11 / 2020
02:24:25 UTC

The document has been completed.

PANORAMA EDUCATION – SERVICE ORDER



Primary Contact Information

Client		Panorama Education, Inc. ("Panorama")	
<i>Client Legal Name ("Client")</i>	Clark County School District	<i>Company Name</i>	Panorama Education, Inc.
<i>Primary Contact, Title</i>	Dr. Mike Barton	<i>Primary Contact, Title</i>	Jillian Evans, Account Director
<i>Billing / Payment Address</i>	5100 W Sahara Ave	<i>Billing Address</i>	24 School St. 4 th Floor
<i>City / State / Zip</i>	Las Vegas, NV 89146	<i>City / State / Zip</i>	Boston, MA 02108
<i>Email</i>	bartowr@nv.ccsd.net	<i>Email</i>	jevans@panoramaed.com
<i>Phone</i>	(702) 799 2273	<i>Phone</i>	(617) 356 8123
<i>Billing Contact</i>	CCSD Purchasing		
<i>Billing Email Address</i>	bodetdm@nv.ccsd.net		

(1) Description of Services and (2) Fees

Description of Services	Fees	
Annual License Fees: Panorama Platform License Fee: Student and Adult SEL & Well-Being All students and staff across the district Access to Platform and Support (as defined in the Terms and Conditions): Survey administration, analysis and reporting. <ul style="list-style-type: none"> • 315,000 student survey participants • 40,000 adult survey participants Project Management Includes dedicated Professional Services Manager who will work with the client's main point of contact to execute a successful project administration. <ul style="list-style-type: none"> • Develop project timeline • Manage setup and administration • Customize report configurations • Coordinate rollout of reports • Direct sync with district SIS 	Effective Date:	11/3/2021
	Contract Term: (From Effective Date)	1 year
	Annual License Fee:	\$ 785,999 / year
	Subtotal License Fee:	\$ 785,999
	Annual Total: (Due on Effective Date for Year 1)	\$ 785,999 / year

Other Terms and Conditions (if any)

Agreement



The agreement by and between the Client and Panorama (this "Agreement") consists of this Service Order (the "SO") and the Terms and Conditions attached to the SO.

PANORAMA EDUCATION – SERVICE ORDER



Authorization

By signing below, the parties hereto ACCEPT AND AGREE to this Agreement as of the last date executed.

Client Signature: 	Print Name, Title: STEVE STAGG PURCHASING DIRECTOR	Date: 6/17/2021
Panorama Signature: 	Print Name, Title: Gayle McGuire, Contract Specialist	Date: 06 / 17 / 2021

Terms and Conditions

BACKGROUND

Panorama is an education technology company that has developed a cloud-based platform-as-a-service that enables schools and school districts to analyze student and school data, measure social-emotional learning, and design and implement survey programs for students, staff and parents (the "Platform"). Client and Panorama have entered into the SO and, from time to time hereafter, Client and Panorama may enter into additional Service Orders ("Future SOs") pursuant to which Client will purchase rights to use the Platform and receive services. These Terms and Conditions are incorporated by reference into the SO to create this Agreement and will be incorporated by reference into each Future SO to create separate future agreements for the rights and services described in the applicable Future SO, in each case to the exclusion of any other terms or conditions that either party seeks to impose or incorporate or that are implied by course of dealing.

1 RIGHT TO USE PLATFORM

1.1 Platform. Subject to the terms and conditions of this Agreement, Panorama hereby grants Client the limited, nonexclusive, nontransferable, non-sublicenseable right to access and use the Platform via the Internet during the Term solely for Client's use (including use by Client's students, staff and parents, as described in the SO, if applicable ("Authorized Users")).

1.2 Limitations. The following limitations and restrictions will apply to the Platform:

(a) Client will not provide access to the Platform to any person who is not an employee or contractor of Client or an Authorized User.

(b) Except as expressly permitted hereunder, Client will not and will not permit or authorize any third party to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Platform; (ii) modify, translate or create derivative works based on the Platform; (iii) copy, rent, lease, distribute, pledge, assign or otherwise transfer or allow any lien, security interest or other encumbrance on the Platform; (iv) use the Platform for timesharing or service bureau purposes or otherwise for the benefit of a third party; (v) hack, manipulate, interfere with or disrupt the integrity or performance of or otherwise attempt to gain unauthorized access to the Platform or its related systems, hardware or networks or any content or technology incorporated in any of the foregoing; or (vi) remove or obscure any proprietary notices or labels of Panorama or its suppliers on the Platform.

2 OWNERSHIP; RESERVATION OF RIGHTS

2.1 Client Ownership. Client owns (a) any data Client inputs into the Platform that identifies Client or its students, staff or parents (including Authorized Users) and any Survey responses provided by Client, its students, staff or parents (including Authorized Users) ("Data"), and (b) any other data and content provided by Client or Authorized Users to Panorama or input into the Platform, such as Survey questions ("Other Data"), and, together with the Data, "Client Data"). Client hereby grants to Panorama a non-exclusive, worldwide, royalty-free, fully paid up, sublicenseable (through multiple tiers) (i) right and license during the Term to copy, distribute, display and create derivative works of and use the Client Data to perform Panorama's obligations under this Agreement; (ii) perpetual, irrevocable right and license to copy, modify and use Client Data to create aggregated, non-personally identifiable data or information ("Blind Data") and copy, distribute, display, create derivative works of and use the Blind Data for benchmarking, research or development purposes, including published research, and (iii) perpetual, irrevocable right and license to copy, distribute, display and create derivative works of and use Other Data for any and all purposes, in any form, media or manner. Client reserves any and all right, title and interest in and to the Client Data other than the licenses therein expressly granted to Panorama under this Agreement.

2.2 Panorama Ownership. Panorama retains all right, title and interest in and to the Platform, all copies or parts thereof (by whomever produced) and all intellectual property rights therein. Panorama grants no, and reserves any and all, rights other than the rights expressly granted to Client under this Agreement with respect to the Platform.

2.3 Feedback. Client may from time to time provide suggestions, comments for enhancements or functionality or other feedback ("Feedback") to

Panorama with respect to the Platform. Panorama has full discretion to determine whether to proceed with development of the requested enhancements, features or functionality. Client hereby grants Panorama a royalty-free, fully paid-up, worldwide, transferable, sublicenseable, irrevocable, perpetual license to (a) copy, distribute, transmit, display, perform, and create derivative works of the Feedback in whole or in part; and (b) use the Feedback in whole or in part, including without limitation, the right to develop, manufacture, have manufactured, market, promote, sell, have sold, offer for sale, have offered for sale, import, have imported, rent, provide and lease products or services that practice or embody, or are configured for use in practicing, the Feedback in whole or in part.

2.4 Client Responsibilities. Client will (a) use commercially reasonable efforts to prevent unauthorized access to or use of the Platform and notify Panorama promptly of any such unauthorized access or use, and (b) use the Platform only in accordance with the documentation and applicable laws and regulations.

2.5 Data Security. Panorama will implement and maintain reasonable administrative, physical and technical safeguards ("Safeguards") which attempt to prevent any collection, use or disclosure of, or access to Client Data that this Agreement does not expressly authorize, including, without limitation, an information security program that meets commercially reasonable industry practice to safeguard Client Data. Such information security program includes: (a) physical security of all premises in which Client Data will be processed and/or stored; and (b) reasonable precautions taken with respect to the employment of, access given to, and education and training of any and all personnel furnished or engaged by Panorama to perform any part of the services hereunder.

2.6 Privacy Policy. Panorama cares deeply about privacy, and we recognize that it is important to the educators, students, and parents we serve. Please see our Privacy Policy at <https://www.panoramacd.com/privacy> for more information about how we protect the privacy of those we serve.

2.7 Right to Data Destruction. If requested by the Client, during or after the term of this agreement, Panorama will make reasonable efforts to destroy or otherwise render Client Data inaccessible.

3 FEES; PAYMENT TERMS

3.1 Fees; Payment Terms. Unless otherwise indicated on the SO, Client will pay all fees within thirty (30) days of the invoice date. If payment of any fee is not made when due and payable, a late fee will accrue at the rate of the lesser of one and one-half percent (1.5%) per month or the highest legal rate permitted by law and Client will pay all reasonable expenses of collection. In addition, if any past due payment has not been received by Panorama within thirty (30) days from the time such payment is due, Panorama may suspend access to the Platform until such payment is made.

3.2 Net of Taxes. All amounts payable by Client to Panorama hereunder are exclusive of any sales, use and other taxes or duties, however designated, including without limitation, withholding taxes, royalties, know-how payments, customs, privilege, excise, sales, use, value-added and property taxes (collectively "Taxes"). Client will be solely responsible for payment of any Taxes, except for those taxes based on the income of Panorama. Client will not withhold any Taxes from any amounts due Panorama.

4 TERM, TERMINATION

4.1 Term. The term of this Agreement will commence on the Effective Date and, unless earlier terminated in accordance with this Section 4, will continue through the date set forth on the SO (the "Term").

4.2 Termination; Effect of Termination. In addition to any other remedies it may have, either party may terminate this Agreement if the other party breaches any of the terms or conditions of this Agreement and fails to cure such breach within thirty (30) days' notice (or ten (10) days in the case of nonpayment) after receiving notice thereof. Upon any termination of this Agreement, Client will pay in full for the use of the Platform up to and including the last day on which the Platform is provided. Upon any termination of this Agreement for any reason, Panorama may, but is not obligated to, in its sole discretion and without delivery of any notice to Client, delete any Client Data stored or otherwise archived on the Platform or on Panorama's network. Upon termination of this Agreement, all rights granted

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hereunder and all obligations of Panorama to provide the Platform will immediately terminate and Client will (a) cease use of the Platform; and (b) return or destroy all other copies or other embodiments of Panorama's Confidential Information.

4.3 **Survival.** Upon expiration or termination of this Agreement, all obligations in this Agreement will terminate, provided that Sections 2 (Ownership; Reservation of Rights), 3 (Fees; Payment Terms), 4.2 (Termination; Effect of Termination), 4.3 (Survival), 5 (Confidentiality), 6.2 (Disclaimer), 7 (Limitations of Liability; Indemnification), and 8 (General) will survive.

5 CONFIDENTIALITY

5.1 As used herein, "**Confidential Information**" means, subject to the exceptions set forth in the following sentence, any information or data, regardless of whether it is in tangible form, disclosed by either party (the "**Disclosing Party**") that the Disclosing Party has either marked as confidential or proprietary, or has identified in writing as confidential or proprietary within thirty (30) days of disclosure to the other party (the "**Receiving Party**"); provided, however, that a Disclosing Party's business plans, strategies, technology, research and development, current and prospective Clients, billing records, and products or services will be deemed Confidential Information of the Disclosing Party even if not so marked or identified. Panorama's Confidential Information includes, without limitation, the Platform and the terms of this Agreement. Information will not be deemed "Confidential Information" if such information: (a) is known to the Receiving Party prior to receipt from the Disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (b) becomes known (independently of disclosure by the Disclosing Party) to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; or (c) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the Receiving Party. Each party acknowledges that the Confidential Information constitutes valuable trade secrets and proprietary information of a party, and each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and it will not disclose, or permit to be disclosed, the same directly or indirectly, to any third party without the other party's prior written consent, except as otherwise permitted hereunder. Each party will use reasonable measures to protect the confidentiality and value of the other party's Confidential Information. Notwithstanding any provision of this Agreement, either party may disclose the terms of this Agreement, in whole or in part (i) to its employees, officers, directors, professional advisers (e.g., attorneys, auditors, financial advisors, accountants and other professional representatives), existing and prospective investors or acquirers contemplating a potential investment in or acquisition of a party, sources of debt financing, acquirers and/or subcontractors who have a need to know and are legally bound to keep such Confidential Information confidential by confidentiality obligations or, in the case of professional advisors, are bound by ethical duties to keep such Confidential Information confidential consistent with the terms of this Agreement; and (ii) as reasonably deemed by a party to be required by law (in which case each party will provide the other with prior written notification thereof, will provide such party with the opportunity to contest such disclosure, and will use its reasonable efforts to minimize such disclosure to the extent permitted by applicable law). Each party agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. In the event of actual or threatened breach of the provisions of this Section, the non-breaching party will be entitled to seek immediate injunctive and other equitable relief, without waiving any other rights or remedies available to it. Each party will promptly notify the other in writing if it becomes aware of any violations of the confidentiality obligations set forth in this Agreement. Upon the termination of this Agreement, each Receiving Party agrees to promptly return to the Disclosing Party or destroy all Confidential Information of the Disclosing Party that is in the possession of the Receiving Party and to certify the return or destruction of all such Confidential Information and embodiments thereof.

6 REPRESENTATIONS, WARRANTIES AND DISCLAIMER

6.1 **Representations and Warranties.** Each party represents and warrants to the other party that (a) such party has the required power and authority to enter into this Agreement and to perform its obligations hereunder, (b) the

execution of this Agreement and performance of its obligations thereunder do not and will not violate any other agreement to which it is a party, and (c) this Agreement constitutes a legal, valid and binding obligation when signed by both parties. Client represents and warrants that it has the right to provide the Client Identifying Data and Client Content for the purposes contemplated by this Agreement.

6.2 **Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE PLATFORM IS PROVIDED ON AN "AS-IS" BASIS AND PANORAMA DISCLAIMS ANY AND ALL WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. ALL OTHER EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. EACH PARTY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. NEITHER PARTY WARRANTS AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE PRODUCTS OR SERVICES PROVIDED BY SUCH PARTY OR AGAINST INFRINGEMENT. NEITHER PARTY WARRANTS THAT THE PRODUCTS OR SERVICES PROVIDED BY SUCH PARTY ARE ERROR-FREE OR THAT OPERATION OF SUCH PARTY'S PRODUCTS OR SERVICES WILL BE SECURE OR UNINTERRUPTED. NEITHER PARTY WILL HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF THE OTHER PARTY TO ANY THIRD PARTY.

7 LIMITATIONS OF LIABILITY; INDEMNIFICATION

7.1 **Disclaimer of Consequential Damages.** THE PARTIES HERETO AGREE THAT, NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, EXCEPT FOR (A) CLIENT'S USE OF THE PLATFORM OTHER THAN EXPRESSLY PERMITTED BY SECTION 1 (RIGHT TO USE PLATFORM) ABOVE, (B) EITHER PARTY'S BREACH OF SECTION 5 (CONFIDENTIALITY) ABOVE, AND (C) LIABILITY ARISING FROM A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 7.4 AND 7.5 BELOW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, RELIANCE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, LOST OR DAMAGED DATA, LOST PROFITS OR LOST REVENUE, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF A PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY THEREOF.

7.2 **General Cap on Liability.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EXCEPT FOR (A) CLIENT'S USE OF THE PLATFORM OTHER THAN EXPRESSLY PERMITTED BY SECTION 1 (RIGHT TO USE PLATFORM) ABOVE, (B) EITHER PARTY'S BREACH OF SECTION 5 (CONFIDENTIALITY) ABOVE, AND (C) LIABILITY ARISING FROM A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 7.4 AND 7.5 BELOW, AS APPLICABLE, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S LIABILITY FOR ALL CLAIMS ARISING UNDER OR RELATING TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE AGGREGATE FEES PAID BY CLIENT TO PANORAMA UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

7.3 **Independent Allocations of Risk.** EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF

Terms and Conditions

LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THEY HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

7.4 Indemnification by Panorama. Except for liability for which Client is responsible under Section 7.5, Panorama will indemnify, defend and hold Client and the officers, directors, agents, and employees of Client ("Client Indemnified Parties") harmless from settlement amounts and damages, liabilities, penalties, costs and expenses ("Liabilities") that are payable to any third party or incurred by the Client Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegation that the use of the Platform in accordance with the terms and conditions of this Agreement infringes such third party's copyright or results in a misappropriation of such third party's trade secrets. Panorama will have no liability or obligation under this Section 7.4 if such Liability is caused in whole or in part by (a) modification of the Platform by any party other than Panorama without Panorama's express consent; (b) the combination, operation, or use of the Panorama with other product(s), data or services not provided by Panorama where the Platform would not by itself be infringing; or (c) unauthorized or improper use of the Platform. If the use of the Platform by Client has become, or in Panorama's opinion is likely to become, the subject of any claim of infringement, Panorama may at its option and expense (i) procure for Client the right to continue using the Platform as set forth hereunder; (ii) replace or modify the Platform to make it non-infringing so long as the Platform has at least equivalent functionality; (iii) substitute an equivalent for the Platform or (iv) if options (i)-(iii) are not available on commercially reasonable terms, terminate this Agreement. This Section 7.4 states Panorama's entire obligation and Client's sole remedies in connection with any claim regarding the intellectual property rights of any third party.

7.5 Indemnification by Client. Client will indemnify, defend and hold Panorama and the officers, directors, agents, and employees of Panorama ("Panorama Indemnified Parties") harmless from Liabilities that are payable to any third party or incurred by the Panorama Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegation arising from or related to (a) any use by Client or Authorized Users of the Platform in violation of this Agreement or (b) the Client Data.

7.6 Indemnification Procedure. If a Client Indemnified Party or a Panorama Indemnified Party (each, an "Indemnified Party") becomes aware of any matter it believes it should be indemnified under Section 7.4 or Section 7.5, as applicable, involving any claim, action, suit, investigation, arbitration or other proceeding against the Indemnified Party by any third party (each an "Action"), the Indemnified Party will give the other party (the "Indemnifying Party") prompt written notice of such Action. The Indemnified Party will cooperate, at the expense of the Indemnifying Party, with the Indemnifying Party and its counsel in the defense and the Indemnified Party will have the right to participate fully, at its own expense, in the defense of such Action with counsel of its own choosing. Any compromise or settlement of an Action will require the prior written consent of both parties hereunder, such consent not to be unreasonably withheld or delayed.

8 GENERAL

Client may not remove or export from, or use from outside, the United States or allow the export or re-export of the Platform or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Neither party may assign this Agreement by operation of law or otherwise or assign or delegate its rights or obligations under the Agreement without the other party's prior written consent; provided however, that either party may assign this Agreement to an acquirer of or successor to all or substantially all of its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any assignment or

attempted assignment by either party otherwise than in accordance with this Section 8 will be null and void. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and a party does not have any authority of any kind to bind the other party in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. Client acknowledges that any unauthorized use of the Platform will cause irreparable harm and injury to Panorama for which there is no adequate remedy at law. In addition to all other remedies available under this Agreement, at law or in equity, Client further agrees that Panorama will be entitled to injunctive relief in the event Client uses the Platform in violation of the limited license granted herein or uses the Platform in any way not expressly permitted by this Agreement. All notices under this Agreement will be in writing and sent to the recipient's address set forth in the SO and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. Each party agrees that it will not, without prior written consent of the other, issue a press release regarding their business relationship. Notwithstanding anything herein to the contrary, Panorama may identify Client and the relationship between Panorama and Client in Panorama's marketing collateral, website, and other promotional and marketing materials. Each party will be excused from performance for any period during which, and to the extent that, it is prevented from performing any obligation or service, in whole or in part, as a result of a cause beyond its reasonable control and without its fault or negligence, including, but not limited to, acts of God, acts of war, epidemics, fire, communication line failures, power failures, earthquakes, floods, blizzard, or other natural disasters (but excluding failure caused by a party's financial condition or any internal labor problems (including strikes, lockouts, work stoppages or slowdowns, or the threat thereof)) (a "Force Majeure Event"). Delays in performing obligations due to a Force Majeure Event will automatically extend the deadline for performing such obligations for a period equal to the duration of such Force Majeure Event. Except as otherwise agreed upon by the parties in writing, in the event such non-performance continues for a period of thirty (30) days or more, either party may terminate this Agreement by giving written notice thereof to the other party. Upon the occurrence of any Force Majeure Event, the affected party will give the other party written notice thereof as soon as reasonably practicable of its failure of performance, describing the cause and effect of such failure, and the anticipated duration of its inability to perform. This Agreement will be governed by the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provisions. For all disputes relating to this Agreement, each party submits to the exclusive jurisdiction of the state and federal courts located in Boston, Massachusetts and waives any jurisdictional, venue, or inconvenient forum objections to such courts.

ADDENDUM TO PANORAMA EDUCATION – SERVICE ORDER TERMS AND CONDITIONS

This Addendum to Panorama Education-Service Order Terms and Conditions (“Addendum”) shall be appended to and form a part of the Service Order effective November 3, 2021 (“Agreement”), and, to the extent this Addendum is considered an Amendment of the November 3, 2021 Service Order is made in consideration for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

1. The Agreement by and between Clark County School District (“CCSD” or “Client”) consists of the Service Order (“SO”), the Terms and Conditions attached to the SO, and this Addendum to Panorama Education – Service Order Terms and Conditions (“Addendum”).
2. The Description of Services in the Service Order will be amended to also include data transfer, survey administration, analysis, and reporting of CCSD employees.
3. Section 2.1 of the Terms and Conditions shall be deleted in its entirety and the following Section 2.1 shall be inserted in its place:

“2.1 Client Ownership. Client owns (a) any data Client inputs into the Platform that identifies Client or its students, staff or parents (including Authorized Users) and any Survey Responses provided by Client, its students and content provided by Client, its students, staff or parents (including Authorized Users (“Data”) and (b) any other data and content provided by Client or Authorized Users to Panorama or input into the Platform, such as Survey Questions (“Other Data” and, together with the Data, “Client Data”). Client Data that does not contain personally identifiable data or information, as defined by the FERPA statutes and regulations and as more particularly described in Section 2.6, as amended, is referred to herein as “Blind Data.” Client data that does contain personally identifiable data or information, as defined by the FERPA statutes and regulations, or other Confidential Information, as defined herein and as described in Section 2.6, as

amended, shall be referred to herein as "Personal Data." Client hereby grants to Panorama a non-exclusive worldwide, royalty-free fully paid up (i) right and license during the Term to copy, distribute, display and create derivative works of and use the Client Data to perform Panorama's obligations under this Agreement; (ii) perpetual, irrevocable right and license to copy, modify and use Blind Data and to copy, distribute, display, create derivative works of and use the Blind Data for benchmarking, research or development purposes, including published research.

Notwithstanding the foregoing, Panorama shall be bound by and adhere to all Regulations and Policies of the Clark County School District, including, but not limited to, those regulations that limit or preclude the right to use Client Data for marketing or other commercial purposes.

4. Section 2.5 shall be deleted in its entirety and the following Section 2.5 shall be inserted in its place:

"2.5 Data Security. Panorama will implement and maintain reasonable administrative, physical and technical safeguards ("Safeguards") for the purpose of preventing any collection, use or disclosure of, or access to Client Data, except as may be specifically authorized by Client herein, including, without limitation, an information security program that meets commercially reasonable industry practice to safeguard Client Data, including but not limited to Personal Data in accordance with the requirements of FERPA. Such information security program includes: (a) physical security of all premises in which Client Data will be processed and/or stored; and (b) reasonable precautions taken with respect to the employment of, access given to, and education and training of any and all personnel furnished or engaged by Panorama to perform any part of the services hereunder."

5. Section 2.6 shall be amended to add the following:

The current paragraph under Privacy Policy will be numbered 2.6.1

2.6.2 In addition to the foregoing, Panorama agrees to apply reasonable administrative, physical, and technical Safeguards and privacy protections to the employee data and surveys. CCSD will provide the following employee data to Panorama, which is publicly available information: school name, school identification number, employee name, employee work email, employee role/job title. If an employee takes a survey, they may voluntarily input their employee identification number, gender, and race.

2.6.3 In addition to the foregoing, Panorama agrees that it will protect the privacy of student information:

- a. Protect student education records and other personally identifiable and/or confidential information in accordance with the Family Education Rights and Privacy Act ("FERPA").
20 U.S.C. §1232g; 34 C.F.R. Part 99; NRS 392.029; NRS 388.272.
 - Personally identifiable information has the same meaning as defined under FERPA at C.F.R. § 99.3.
 - Education record has the same meaning as defined under FERPA at C.F.R. § 99.3.
 - Deidentified data, as used in this Agreement, means data from which all personally identifiable information has been removed or obscured so that a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, would not be able to identify any individual student or parent with reasonable certainty. 34 C.F.R. § 99.31(b)(1); 34 C.F.R. § 99.3.
- b. Protect student information under the Protection of Pupil Rights Amendment ("PPRA"). 20 U.S.C. §1232h; 34 C.F.R. Part 98; NRS 392.029; NRS 388.272.
 - PPRA applies to certain surveys, analysis, or evaluations that ask students to respond in any manner that reveals information concerning: (1) political affiliations or beliefs of the student or the student's family; (2) mental or psychological problems of the student

or the student's family; (3) sex behavior or attitudes; (4) illegal, anti-social, self-incriminating, or demeaning behavior; (5) critical appraisals of other individuals with whom respondents have close family relationships; (6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, or ministers; (7) religious practices, affiliations, or beliefs of the student or student's parent; or (8) income. 20 U.S.C. §1232h.

- PPRA allows for student participation in certain surveys, analysis, or evaluations that concern one of eight (8) protected areas if parents are provided notice of the survey and are given an opportunity to opt the student out of participation in the survey. 20 U.S.C. §1232h(c)(2); 34 C.F.R. Part 98. CCSD will provide parents with notice and an opportunity to opt out of the Panorama Student Competency and Well-Being survey.
- c. FERPA generally requires written consent from parents to release personally identifiable student information from education records. However, FERPA permits an educational agency to disclose personally identifiable information from an education record of a student without consent if the disclosure meets one or more of the conditions outlined in 20 U.S.C. § 1232g. The FERPA studies exception applies to the Panorama Student Competency and Well-Being survey.
- d. The studies and services conducted pursuant to this Agreement will be done in accordance with FERPA. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. Part 99; NRS 392.029; NRS 388.272.
- e. The purpose and scope of the studies is to improve programs and instruction to enhance student achievement in education. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. § 99.31(a)(6)(i). In order to enhance student learning, CCSD will use the Panorama platform to conduct the Panorama Student Competency and Well-Being survey to gather information regarding

students' social emotional well-being. Student well-being is critical to academic success, mental health, economic prosperity, and relationship success.

- f. The following data will be released to Panorama under this Agreement: student name, student identification number, student email address, school of attendance, grade level, date of birth, gender, race, and student's responses on the Panorama Student Competency and Well-Being survey. Panorama will also obtain school roster data. There will be a Panorama survey for students in Grades 3-5 and a separate Panorama survey for students in Grades 6-12. Students will create their own Panorama account by providing their name, student identification number, student email address, school of attendance, grade level, date of birth, gender, and race. Students will then use the platform to respond to the Panorama Student Competency and Well-Being survey. Unless a student or parent opts out, teachers may assist students with creating an account.
- g. Panorama will not collect, use, or disclose student personally identifiable information except as permitted by this Agreement or as required by law without approval of CCSD. 20 U.S.C. § 1232g; 34 C.F.R. § 99.31(a)(6)(iii)(C)(2); NRS 392.029; NRS 388.272.
- h. Panorama will not conduct any other survey, analysis, or evaluation except as permitted by this Agreement or as required by law without approval of CCSD. 20 U.S.C. §1232h; 34 C.F.R. Part 98; NRS 392.029; NRS 388.272.
- i. Panorama will conduct the services in a manner that does not permit personal identification of parents and students by anyone other than representatives of Panorama with legitimate interests. 34 C.F.R. § 99.31(a)(6)(iii)(C)(3).
- j. Panorama will not (i) use student personally identifiable information for advertising purposes; (ii) use student personally identifiable information to amass a profile about a student except in furtherance of the services provided under this Agreement; or (iii) sell

student personally identifiable information.

- k. Panorama agrees that it will destroy all student personally identifiable information within its possession, custody, or control within sixty (60) days following the time that such information is no longer needed for the purposes for which this Agreement was conducted or upon notice from CCSD. Upon destruction of the information, Panorama will promptly certify in writing to CCSD that this destruction has occurred. Nothing in the Agreement authorizes Panorama to maintain student personally identifiable information beyond this time period without the consent of CCSD, which shall not unreasonably be withheld.
U.S.C. § 1232g; 34 C.F.R. § 99.31(a)(6)(iii)(C)(4); NRS 392.029; NRS 388.272.
- l. Notwithstanding the foregoing, and consistent with FERPA and PPRA, Panorama may use and disclose de-identified data (as defined above); provided, however, that Panorama agrees not to attempt to re-identify the data and not to disclose such data to any third party unless that third party agrees not to attempt to re-identify the data.
- m. CCSD has the right to conduct audits or other monitoring activities of Panorama's policies, procedures, and systems, subject to Panorama's agreement for frequency and schedule, not to be unreasonably withheld.
- n. Panorama acknowledges that it provides training for its employees about FERPA and PPRA and how to protect education records, and that it has appropriate disciplinary policies for employees that violate FERPA and PPRA.
- o. Each party is independently required to comply with the requirements of FERPA and PPRA. Each party agrees that it shall not be liable for any violation of any provision of FERPA or PPRA directly or indirectly relating to, arising out of, or resulting from, or in any manner attributable to, the actions of the other party.
- p. Panorama acknowledges that it has a sound data security plan and data stewardship

program.

6. 2.6.4 The Agreement is covered by two exceptions to the Family Educational Rights and Privacy Act ("FERPA").

- a. The FERPA studies exception applies to the Panorama Agreement, which is set forth fully in this Addendum dated. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. § 99.31(a)(6).
- b. The FERPA school official exception also applies to the Panorama Agreement. Panorama is a contractor or outside service provider with whom CCSD has outsourced institutional services or functions that it would otherwise use employees to perform, including, but not limited to, addressing student social emotional well-being. 20 U.S.C. § 1232g(b)(1); 34 C.F.R. § 99.31(a)(1). For purposes of FERPA, Panorama constitutes a school official with a legitimate educational interest in obtaining access to education records, and will only have access to those particular education records in which they have a legitimate educational interest. 20 U.S.C. §1232g(b)(1); 34 C.F.R. § 99.31(a)(1). The data to be released is set forth fully in this Addendum. Panorama will be under the direct control of CCSD with respect to the maintenance and use of personally identifiable information from education records provided under the Agreement. 34 C.F.R. § 99.31(a)(1). Panorama is subject to the same conditions on the use and re-disclosure of personally identifiable information from education records that govern other school officials, including 34 C.F.R. § 99.33 and the requirements established by CCSD. The Parties will comply with all applicable FERPA requirements and security safeguards as set forth more fully in this Addendum.

7. Section 4.3 of the Terms and Services shall be amended to include 9 (Insurance) as part of the survival clause.

8. The first full sentence of Section 5.1 shall be amended to state as follows:

"5.1 As used herein, "Confidential Information" means, subject to the exceptions set forth in the following sentence, any information or data regardless of whether it is in tangible form, disclosed by either party (the "Disclosing Party") that the Disclosing Party has either marked as confidential or proprietary, or has identified in writing as confidential or proprietary within thirty (30) days of disclosure to the other Party ("the "Receiving Party"); provided, however, that a Disclosing Party's business plans, strategies, technology, research and development, and current and prospective Clients will be deemed Confidential Information of the Disclosing Party even if not so marked or identified. For the avoidance of doubt, Confidential Information does not include Personal Data because protection of Personal Data is addressed in Sections 2.5 and 2.6."

9. The fourth full sentence of Section 5.1 shall be amended to state as follows:

"Each Party acknowledges that the Confidential Information constitutes valuable trade secrets, proprietary information or other information of which the disclosure is prohibited by law, and each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and as required or allowed by law and each party will not disclose or permit to be disclosed the same directly or indirectly to any third party without the other party's prior written consent."

10. The first full sentence of Section 7.4 shall be amended to state as follows:

"Except for the liability for which Client is responsible under Section 7.5, Panorama will indemnify, defend and hold Client and the officers, directors, agents, Trustees and Employees of Client ("Client Indemnified Parties") harmless from settlement amounts, judgments, arbitration awards, damages, liabilities, penalties, costs and expenses ("Liabilities") that are payable to any third party or incurred by the Client Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegations which are caused by Panorama, including, without

limitation, alleged copyright infringement or misappropriation of the third party's trade secrets, except as limited herein.”

11. Section 8 of the Terms and Conditions shall be amended by deleting the following sentence in its entirety: “In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys’ fees.”
12. The last sentence of Section 8 of the Terms and Conditions shall be amended as follows: “For all disputes relating to this Agreement, each party submits to the exclusive jurisdiction of the state and federal courts located in Clark County, Nevada and waives any jurisdictional, venue, or inconvenience forum objections to such courts.”
13. The Terms and Conditions shall be amended to insert a new Section 9 which will be titled “INSURANCE” and include the following language:

9 INSURANCE

9.1 Insurance: Panorama shall be responsible for maintaining insurance coverage in force for the life of the Agreement. The insurance company(ies) must have an A.M. Best rating of A- VI or better and be licensed to write such insurance in the state of Nevada. Prior to commencement of services provide the CCSD certificate(s) of insurance verifying the coverage. The insurance carrier shall give CCSD a thirty (30) day written advance notice of any termination, expiration, or any and all changes in coverage. Deductibles and self-insurance retentions shall be declared in the certificate(s) of insurance. All deductibles and retentions are the sole responsibility of Panorama to pay. Certificates shall verify the following coverages:

- (a) Professional Liability (Errors & Omissions) with minimum limits of at least \$1,000,000 per occurrence. The insurance required above may be provided under primary policies or by a combination of primary and excess policies.

(b) Cyber Liability with minimum amounts of at least \$1,000,000 per occurrence for claims involving privacy violations, information theft, intentional and/or unintentional release and/or extortion.

(c) Reference your certificate of insurance to the Clark County School District, Attention: Purchasing Department, 4212 Eucalyptus Avenue, Bldg. #7, Las Vegas, NV 89121, and indicate the PS number.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby:

CLARK COUNTY SCHOOL DISTRICT

PANORAMA

By  _____

Purchasing Administrator

Printed Name STEVE STAGGS

Title PURCHASING DIRECTOR

Date 6/17/2021

By  _____

Authorized Company Representative

Printed Name Gayle McGuire

Title Contract Specialist

Date 06 / 17 / 2021

PANORAMA EDUCATION – SERVICE ORDER



Primary Contact Information			
Client		Panorama Education, Inc. ("Panorama")	
Client Legal Name ("Client")	Clark County School District	Company Name	Panorama Education, Inc.
Primary Contact, Title	Dr. Mike Barton	Primary Contact, Title	Jillian Evans, Sr Account Director
Billing / Payment Address	5100 W Sahara Ave	Billing Address	24 School St. Fourth Floor
City / State / Zip	Las Vegas, NV 89146	City / State / Zip	Boston, MA 02108
Primary Contact Email Address	bartowr@nv.ccsd.net	Email	jevens@panoramaed.com
Primary Contact Phone Number	(702) 799-2273	Phone	(617) 356-8123
Accounts Payable Contact	CCSD Purchasing		
Accounts Payable Email Address	bodetdm@nv.ccsd.net		
Accounts Payable Phone Number	(702) 799-5225		
Purchase Order Required?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
(1) Description of Services and (2) Fees			
Description of Services		Fees	
Annual Licenses:		Effective Date:	11/3/2022
Panorama Platform License Fee: Student and Adult SEL and Well-Being All students and staff across the district		Contract Term: (From Effective Date)	2 years
Access to Platform and Support (as defined in the Terms and Conditions): Survey administration, analysis and reporting.		Annual License Fee:	\$785,999 / year
<ul style="list-style-type: none"> • 315,000 student survey participants • 40,000 adult survey participants 			
Project Management			
Includes a dedicated project team who will work with Clark County School District to execute a successful program.			
<ul style="list-style-type: none"> • Develop project timeline • Manage setup and administration • Customize report configurations • Coordinate rollout of reports 			

PANORAMA EDUCATION – SERVICE ORDER



<ul style="list-style-type: none"> • Sync the platform directly with CCSD's SIS 		
	Annual Total: <i>(Invoiced on Effective Date)</i>	\$ 785,999 / year
	Total Over Contract Term:	\$1,571,998
(3) Agreement		
The entire agreement by and between Client and Panorama (" <u>Agreement</u> ") consists of (i) the terms set forth in this Service Order (" <u>SO</u> ") and (ii) the terms attached as Exhibit A to, and hereby incorporated by reference into, this SO (" <u>Terms</u> ").		
(4) Supplemental Terms and Conditions (if any)		
Authorization		
By signing below, Client and Panorama ACCEPT AND AGREE TO the Agreement as of the Effective Date.		
Client Signature:	Print Name, Title:	Date:
Panorama Signature:	Print Name, Title:	Date:

Exhibit A
Terms

BACKGROUND

Panorama is an education technology company that provides a cloud-based platform-as-a-service and related support services to enable schools and school districts to analyze student and school data, measure social-emotional learning, and design and implement survey programs for students, staff and parents or authorized guardians ("Platform"). The client named on the Service Order attached hereto ("Client") and Panorama have entered into an agreement consisting of the attached Service Order, including any exhibits attached thereto, ("SO"), these terms ("Terms") and collectively with the SO, "Agreement". From time to time hereafter, Client and Panorama may enter into additional service orders pursuant to which Client may purchase additional rights to use the Platform and receive additional services, provided that these Terms will be incorporated by reference into and apply to each such additional service order to create a separate agreement that governs each such additional service order, in each case to the exclusion of any other terms or conditions that either party seeks to impose or incorporate or that are implied by course of dealing.

1 RIGHT TO USE PLATFORM

1.1 Platform. Subject to this Agreement, Panorama hereby grants Client (including Client's students, employees, and parents and authorized guardians of Client's students, all as applicable and described in the relevant SO, ("Authorized Users")), the limited, nonexclusive, nontransferable, non-sublicenseable right to access and use the Platform via the Internet during the Term solely for Client's use, in accordance with applicable laws and regulations and the Platform's intended uses as communicated to Client by Panorama.

1.2 Limitations. Except as expressly permitted in the Agreement, Client will not and will not authorize or allow any third party to: (a) provide access to the Platform to any person who is not an Authorized User or (b) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Platform; (c) modify, translate or create derivative works based on the Platform; (d) copy, rent, lease, distribute, pledge, assign or otherwise transfer or allow any lien, security interest or other encumbrance on the Platform; (e) use the Platform for timesharing or service bureau purposes or otherwise for the benefit of a third party; (f) hack, manipulate, interfere with or disrupt the integrity or performance of or otherwise attempt to gain unauthorized access to the Platform or its related systems, hardware or networks or any content or technology incorporated in any of the foregoing; or (g) remove or obscure any proprietary notices

or labels of Panorama or its suppliers on the Platform or on any printed or digital materials provided by Panorama.

1.3 Compliance with Laws. Panorama is responsible for compliance with federal, state local laws and regulations to the extent they govern Panorama's activities, including providing the Platform to Client. Client is responsible for compliance with federal, state and local laws and regulations to the extent they govern Client's activities, including but not limited to the use by Client of the Platform to collect, record, retain, use and disclose any individual's information. Without limiting the foregoing, each party is responsible for determining its own obligations, including but not limited to notice and consent obligations, under the Family Educational Right to Privacy Act and its implementing regulations ("FERPA") and the Protection of Pupil Rights Act and its implementing regulations ("PPRA"). The parties agree that they intend for the collection and use of personally identifiable information (as defined under FERPA) for only legitimate educational purposes and other purposes allowed under relevant laws, including but not limited to FERPA and PPRA. Client hereby gives its consent to Panorama on behalf of parents (as defined under FERPA, PPRA and the Children's Online Privacy Protection Act ("COPPA")) of children from whom any personal information (as defined under COPPA) may be gathered in connection with this Agreement and the Platform. Panorama shall not be obligated to obtain consents from parents directly.

2 INTELLECTUAL PROPERTY; PRIVACY; SECURITY

2.1 Client Data. As between Client and Panorama, Client owns data input into the Platform, or otherwise provided to Panorama, by Client and Authorized Users, that constitutes personally identifiable information (as defined under FERPA), such as student survey responses reported on an individual level, ("Client PII") and (b) any other data and content input into the Platform, or otherwise provided to Panorama, by Client and Authorized Users or on their behalf, such as survey questions, ("Non-PII") and together with PII "Client Data"). Client hereby grants Panorama a nonexclusive, worldwide, royalty-free, fully paid up, sublicenseable (through multiple tiers): (i) right and license during the Term to copy, distribute, display, create derivative works of and use Client Data to perform Panorama's obligations under this Agreement; (ii) perpetual, irrevocable right and license to copy, modify and use Client PII to create aggregated, non-personally identifiable data sets ("Blind Data") and copy, distribute, display, create derivative works of and use Blind Data for benchmarking, research or development purposes, including published research; and (iii) perpetual, irrevocable right and license to copy, distribute, display, create derivative works of and use Non-PII, for any and all purposes, in any form, media

Exhibit A
Terms

or manner. Client reserves any and all right, title and interest in and to Client Data other than the licenses therein expressly granted to Panorama under this Agreement.

2.2 Panorama Intellectual Property. Panorama retains all right, title and interest in and to the Platform, including but not limited to learning content, teaching materials, survey questions, underlying research and methodologies (by whomever produced except to the extent Client produced such material), all copies and parts of any of the foregoing, and all intellectual property rights therein. Panorama grants no, and reserves any and all, rights other than the rights expressly granted to Client under this Agreement with respect to the Platform.

2.3 Client Feedback. Client may from time to time provide suggestions, comments for enhancements or functionality or other feedback ("Feedback") to Panorama with respect to the Platform. Panorama has full discretion to determine whether to proceed with development of the requested enhancements, features or functionality. Client hereby grants Panorama a royalty-free, fully paid-up, worldwide, transferable, sublicenseable, irrevocable, perpetual license to: (a) copy, distribute, transmit, display, perform, and create derivative works of the Feedback in whole or in part; and (b) use the Feedback in whole or in part, including without limitation, the right to develop, manufacture, have manufactured, market, promote, sell, have sold, offer for sale, have offered for sale, import, have imported, rent, provide and lease products or services that practice or embody, or are configured for use in practicing, the Feedback in whole or in part.

2.4 Panorama Privacy Policy. Panorama's Privacy Statement, as may be amended from time to time, is available at <https://www.panoramaed.com/privacy>.

2.5 Data Security and Privacy.

(a) Panorama will implement and maintain an information security program that is consistent with industry recognized practices, which include using commercially reasonable administrative, physical and technical safeguards designed to protect the Platform from unauthorized access that could compromise the security, confidentiality or integrity of Client PII. Panorama shall: (i) use reasonable efforts to secure physical premises where Client PII will be processed and/or stored and (ii) take reasonable precautions with respect to the employment of, access given to, and education and training of personnel engaged by Panorama to perform its obligations under this Agreement.

(b) Client will and will instruct its Authorized Users to: (i) use the Platform to collect, record, retain, use and disclose personally identifiable information only to the extent

necessary for its legitimate educational purposes; (ii) otherwise provide Panorama with personally identifiable information only to the extent necessary for Panorama to provide the Platform and perform its obligations under the Agreement; (iii) input personally identifiable information into the Platform only as prescribed by Panorama and only in the fields designated by Panorama ("Structured Fields"); (iv) use reasonable efforts to prevent unauthorized access to or use of the Platform; and (v) notify Panorama promptly of any known or suspected unauthorized access or use. Client will assist Panorama in all efforts to investigate and mitigate the effects of any such incident.

(c) If during the Term or upon termination of this Agreement Client requests in writing, Panorama will delete or otherwise render unrecoverable Client PII in Panorama's possession in a manner consistent with media sanitization practices described under industry recognized standards.

(d) Panorama shall not be responsible for any personally identifiable information input into the Platform in a manner not prescribed by Panorama or in a field that is not a Structured Field.

3 FEES; PAYMENT TERMS

3.1 Fees; Payment Terms. Unless otherwise indicated on the SO, Client will pay all fees within thirty (30) days of the invoice date. If payment of any fee is not made when due and payable, a late fee will accrue at the rate of the lesser of one and one-half percent (1.5%) per month or the highest legal rate permitted by law and Client will pay all reasonable expenses of collection. In addition, if any past due payment has not been received by Panorama within thirty (30) days from the time such payment is due, Panorama may upon written notice to Client suspend access to the Platform until such payment is made.

3.2 Taxes; Tax Exemption. All amounts payable by Client to Panorama hereunder are exclusive of any sales, use and other taxes or duties, however designated, including without limitation, withholding taxes, royalties, know-how payments, customs, privilege, excise, sales, use, value-added and property taxes (collectively "Taxes"). To the extent applicable, Client will be solely responsible for payment of all Taxes and will not withhold any Taxes from any amounts due Panorama. For the avoidance of doubt, Taxes do not include taxes based on Panorama's income. Client is responsible for determining whether it qualifies for any tax exemption, and if Client claims it is tax-exempt, it will, upon request from Panorama, provide documentation evidencing its tax-exempt status.

Exhibit A
Terms

4 TERM, TERMINATION

4.1 Term. The term of the Agreement will commence on the Effective Date and, unless earlier terminated in accordance with this Section 4, will continue through the date set forth on the SO ("Term").

4.2 Expiration; Termination. In addition to any other remedies it may have, either party may terminate the Agreement prior to expiration if the other party breaches any part of the Agreement and fails to cure such breach within thirty (30) days after receiving notice thereof. Upon expiration or any termination for any reason of the Agreement: (a) Client will pay in full for use of the Platform up to and including the last day on which the Platform is provided; (b) Panorama may, without notice to Client, delete or otherwise render unrecoverable Client PII in Panorama's possession in a manner consistent with media sanitization practices described under industry recognized standards; and (c) all rights granted to Client and all obligations of Panorama will immediately terminate and Client will promptly cease use of the Platform.

4.3 Survival. Upon expiration or termination for any reason of the Agreement, Sections 2 (Intellectual Property; Privacy; Security), 3 (Fees; Payment Terms), 4.2 (Termination; Effect of Termination), 4.3 (Survival), 5 (Confidentiality), 6.2 (Disclaimer), 7 (Limitations of Liability; Indemnification), and 8 (General) will survive.

5 CONFIDENTIALITY

5.1 As used herein, "Confidential Information" means, subject to the exceptions set forth in the following sentence, any information or data that is not Client PII, regardless of whether it is in tangible form, disclosed by either party ("Disclosing Party") that Disclosing Party has either marked as confidential or proprietary, or has identified in writing as confidential or proprietary within thirty (30) days of disclosure to the other party ("Receiving Party"); provided, however, that a Disclosing Party's business plans, strategies, technology, research and development, current and prospective clients and customers, billing records, and products or services will be deemed Confidential Information of Disclosing Party even if not so marked or identified. Panorama's Confidential Information includes, without limitation, the Platform and this Agreement. Information will not be deemed Confidential Information" if such information: (a) is known to the Receiving Party prior to receipt from Disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to Disclosing Party; (b) becomes known (independently of disclosure by Disclosing Party) to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to Disclosing Party; or (c) becomes publicly known or otherwise ceases to be

secret or confidential, except through a breach of this Agreement by the Receiving Party. Each party acknowledges that certain Confidential Information may constitute valuable trade secrets and proprietary information of a party, and each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and will not disclose, or permit to be disclosed, the same directly or indirectly, to any third party without the other party's prior written consent, except as otherwise permitted hereunder. Each party will use reasonable measures to protect the confidentiality and value of the other party's Confidential Information. Notwithstanding any provision of this Agreement, either party may disclose the terms of the Agreement, in whole or in part (i) to its employees, officers, directors, professional advisers (e.g., attorneys, auditors, financial advisors, accountants and other professional representatives), existing and prospective investors or acquirers contemplating a potential investment in or acquisition of a party, sources of debt financing, acquirers and/or subcontractors who have a need to know and are legally bound to keep such Confidential Information confidential by confidentiality obligations or, in the case of professional advisors, are bound by ethical duties to keep such Confidential Information confidential consistent with the terms of this Agreement; and (ii) as reasonably deemed by a party to be required by law (in which case each party will provide the other with prior written notification thereof, will provide such party with the opportunity to contest such disclosure, and will use its reasonable efforts to minimize such disclosure to the extent permitted by applicable law). Each party agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. In the event of actual or threatened breach of the provisions of this Section, the non-breaching party will be entitled to seek immediate injunctive and other equitable relief, without waiving any other rights or remedies available to it. Each party will promptly notify the other in writing if it becomes aware of any violations of the confidentiality obligations set forth in the Agreement. Upon Disclosing Party's written request, Receiving Party will either promptly return to Disclosing Party Disclosing Party's Confidential Information, and all embodiments thereof, that is in Receiving Party's possession and certify such return or use reasonable efforts to delete or otherwise render inaccessible such Confidential Information and certify the same.

6 REPRESENTATIONS, WARRANTIES AND DISCLAIMER

6.1 Representations and Warranties. Each party represents and warrants to the other party that (a) such party has the required power and authority to enter into this Agreement and to perform its obligations hereunder, (b) the execution of this Agreement and performance of its

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obligations thereunder do not and will not violate any other agreement to which it is a party or any law or regulation applicable to it, and (c) this Agreement constitutes a legal, valid and binding obligation when signed by both parties. Client further represents and warrants that it has the right to provide Client Data to Panorama as well as the licenses and rights therein and thereto for the purposes contemplated by this Agreement.

6.2 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE PLATFORM IS PROVIDED ON AN "AS-IS" BASIS AND PANORAMA DISCLAIMS ANY AND ALL WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. ALL OTHER EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. EACH PARTY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. NEITHER PARTY WARRANTS AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE PRODUCTS OR SERVICES PROVIDED BY SUCH PARTY OR AGAINST INFRINGEMENT. NEITHER PARTY WARRANTS THAT THE PRODUCTS OR SERVICES PROVIDED BY SUCH PARTY ARE ERROR-FREE OR THAT OPERATION OF SUCH PARTY'S PRODUCTS OR SERVICES WILL BE SECURE OR UNINTERRUPTED. NEITHER PARTY WILL HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF THE OTHER PARTY TO ANY THIRD PARTY.

7 LIMITATIONS OF LIABILITY; INDEMNIFICATION

7.1 Disclaimer of Consequential Damages. THE PARTIES HERETO AGREE THAT, NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, EXCEPT FOR LIABILITY ARISING OUT OF (A) CLIENT'S USE OF THE PLATFORM OTHER THAN EXPRESSLY PERMITTED BY SECTION 1 (RIGHT TO USE PLATFORM), (B) EITHER PARTY'S BREACH OF SECTION 5 (CONFIDENTIALITY), AND (C) A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 7.4 AND 7.5 BELOW, AS APPLICABLE, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, RELIANCE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, LOST OR DAMAGED DATA, LOST PROFITS OR LOST REVENUE, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF A PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY THEREOF.

7.2 General Cap on Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EXCEPT FOR LIABILITY ARISING OUT OF (A) CLIENT'S USE OF THE PLATFORM OTHER THAN EXPRESSLY PERMITTED BY SECTION 1 (RIGHT TO USE PLATFORM), (B) EITHER PARTY'S BREACH OF SECTION 5 (CONFIDENTIALITY), AND (C) A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 7.4 AND 7.5 BELOW, AS APPLICABLE, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S LIABILITY FOR ALL CLAIMS ARISING UNDER OR RELATING TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE AGGREGATE FEES PAID BY CLIENT TO PANORAMA UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

7.3 Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THEY HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

7.4 Indemnification by Panorama. Except for liability for which Client is responsible under Section 7.5, Panorama will indemnify, defend and hold Client and the officers, directors, agents, and employees of Client ("Client Indemnified Parties") harmless from settlement amounts and damages, liabilities, penalties, costs and expenses ("Liabilities") that are payable to any third party or incurred by the Client Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegation that the use of the Platform in accordance with the terms and conditions of this Agreement infringes such third party's copyright or results in a misappropriation of such third party's trade secrets. Panorama will have no liability or obligation under this Section 7.4 if such Liability is caused in whole or in part by (a) modification of the Platform by any party other than Panorama without Panorama's express consent; (b) the combination, operation, or use of the Platform with other product(s), data or services not provided by Panorama where the Platform would not by itself be infringing; or (c) unauthorized or improper use of the Platform. If the use of the Platform by Client has become, or in Panorama's opinion is likely to become, the subject of any claim of infringement, Panorama may at its option and

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expense (i) procure for Client the right to continue using the Platform as set forth hereunder; (ii) replace or modify the Platform to make it non-infringing so long as the Platform has at least equivalent functionality; (iii) substitute an equivalent for the Platform or (iv) if options (i)-(iii) are not available on commercially reasonable terms, terminate the Agreement. This Section 7.4 states Panorama's entire obligation and Client's sole remedies in connection with any claim regarding the intellectual property rights of any third party.

7.5 Indemnification by Client. Client will indemnify, defend and hold Panorama and the officers, directors, agents, and employees of Panorama ("**Panorama Indemnified Parties**") harmless from Liabilities that are payable to any third party or incurred by the Panorama Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegation arising from or related to any use by Client or Authorized Users of the Platform or Client Data in violation of the Agreement or any applicable federal, state or local law or regulation.

7.6 Indemnification Procedure. If a Client Indemnified Party or a Panorama Indemnified Party (each, an "**Indemnified Party**") becomes aware of any matter it believes it should be indemnified under Section 7.4 or Section 7.5, as applicable, involving any claim, action, suit, investigation, arbitration or other proceeding against the Indemnified Party by any third party (each an "**Action**"), the Indemnified Party will give the other party ("**Indemnifying Party**") prompt written notice of such Action. Indemnified Party will cooperate, at the expense of Indemnifying Party, with Indemnifying Party and its counsel in the defense and Indemnified Party will have the right to participate fully, at its own expense, in the defense of such Action with counsel of its own choosing. Any compromise or settlement of an Action will require the prior written consent of both parties hereunder, such consent not to be unreasonably withheld or delayed.

8 GENERAL

8.1 International. Client may not remove or export from, or use from outside, the United States or allow the export or re-export of the Platform or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority.

8.2 Relationship. No agency, partnership, joint venture, or employment is created as a result of the Agreement and a party does not have any authority of any kind to bind the other party in any respect whatsoever.

8.3 Publicity. Each party agrees that it will not, without prior written consent of the other, issue a press release

regarding their business relationship. Notwithstanding anything herein to the contrary, Panorama may identify Client and the relationship between Panorama and Client in Panorama's marketing collateral, website, and other promotional, proposal and marketing materials.

8.4 Assignment. Neither party may assign the Agreement by operation of law or otherwise or assign or delegate its rights or obligations under the Agreement without the other party's prior written consent; provided however, that either party may assign the Agreement to an acquirer of or successor to all or substantially all of its business or assets to which the Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any assignment or attempted assignment by either party otherwise than in accordance with this Section 8 will be null and void.

8.5 Equitable Relief. In any action or proceeding to enforce rights under the Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. Client acknowledges that any unauthorized use of the Platform will cause irreparable harm and injury to Panorama for which there is no adequate remedy at law. In addition to all other remedies available under the Agreement, at law or in equity, Client further agrees that Panorama will be entitled to injunctive relief in the event Client uses the Platform in violation of the limited license granted herein or uses the Platform in any way not expressly permitted by the Agreement.

8.6 Force Majeure. Each party will be excused from performance for any period during which, and to the extent that, it is prevented from performing any obligation or service, in whole or in part, as a result of a cause beyond its reasonable control and without its fault or negligence, including, but not limited to, acts of God, acts of war, epidemics, fire, communication line failures, power failures, earthquakes, floods, blizzard, or other natural disasters (but excluding failure caused by a party's financial condition or any internal labor problems (including strikes, lockouts, work stoppages or slowdowns, or the threat thereof)) ("**Force Majeure Event**"). Delays in performing obligations due to a Force Majeure Event will automatically extend the deadline for performing such obligations for a period equal to the duration of such Force Majeure Event. Except as otherwise agreed upon by the parties in writing, in the event such non-performance continues for a period of thirty (30) days or more, either party may terminate the Agreement by giving written notice thereof to the other party. Upon the occurrence of any Force Majeure Event, the affected party will give the other party written notice thereof as soon as reasonably practicable of its failure of performance, describing the cause and effect of such failure, and the anticipated duration of its inability to perform.

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8.7 Governance. This Agreement will be governed by the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provisions. For all disputes relating to this Agreement, each party submits to the exclusive jurisdiction of the state and federal courts located in Boston, Massachusetts and waives any jurisdictional, venue, or inconvenient forum objections to such courts.

8.8 Agreement. Both parties agree that the Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of the Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. If any provision of the Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that the Agreement will otherwise remain in full force and effect and enforceable. Any additional or different terms proposed by Client, including those contained in Client's procurement order, acceptance, vendor portal or website, shall not be valid or have any effect unless expressly incorporated into the SO and agreed upon in writing by Panorama. Neither Panorama's acceptance of Client's procurement order nor its failure to object elsewhere to any provisions of any subsequent document, website, communication or act of Client shall be deemed acceptance thereof or a waiver of any of the terms in these Terms. If any term of the SO, including any exhibit attached thereto, expressly conflicts with a term of these Terms, the term of the SO (or if applicable the exhibit) shall prevail. If terms within the SO, including any exhibit attached thereto, and these Terms appear merely inconsistent or ambiguous, all such terms shall be given effect to the extent reasonably possible, with a term that is more specific and detailed on a certain matter prevailing over a more general term or silence on that matter. Silence in the SO, or in any exhibit attached thereto, or in these Terms, on a matter that is addressed elsewhere in the Agreement shall not be deemed to present an express conflict, inconsistency or ambiguity.

8.9 Notices. All notices under the Agreement will be in writing and sent to the recipient's address set forth in the SO and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

ADDENDUM TO PANORAMA EDUCATION – SERVICE ORDER TERMS AND CONDITIONS

This Addendum to Panorama Education-Service Order Terms and Conditions ("Addendum") shall be appended to and form a part of the Service Order effective November 3, 2021²² ("Agreement"), and, to the extent this Addendum is considered an Amendment of the November 3, 2021²² Service Order is made in consideration for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

1. The Agreement by and between Clark County School District ("CCSD" or "Client") consists of the Service Order ("SO"), the Terms and Conditions attached to the SO, and this Addendum to Panorama Education – Service Order Terms and Conditions ("Addendum").

2. The Description of Services in the Service Order will be amended to also include data transfer, survey administration, analysis, and reporting of CCSD employees.

3. Section 2.1 of the Terms and Conditions shall be deleted in its entirety and the following Section 2.1 shall be inserted in its place:

"2.1 Client Ownership. Client owns (a) any data Client inputs into the Platform that identifies Client or its students, staff or parents (including Authorized Users) and any Survey Responses provided by Client, its students and content provided by Client, its students, staff or parents (including Authorized Users ("Data") and (b) any other data and content provided by Client or Authorized Users to Panorama or input into the Platform, such as Survey Questions ("Other Data" and, together with the Data, "Client Data"). Client Data that does not contain personally identifiable data or information, as defined by the FERPA statutes and regulations and as more particularly described in Section 2.6, as amended, is referred to herein as "Blind Data." Client data that does contain personally identifiable data or information, as defined by the FERPA statutes and regulations, or other Confidential Information, as defined herein and as described in Section 2.6, as



amended, shall be referred to herein as "Personal Data." Client hereby grants to Panorama a non-exclusive worldwide, royalty-free fully paid up (i) right and license during the Term to copy, distribute, display and create derivative works of and use the Client Data to perform Panorama's obligations under this Agreement; (ii) perpetual, irrevocable right and license to copy, modify and use Blind Data and to copy, distribute, display, create derivative works of and use the Blind Data for benchmarking, research or development purposes, including published research.

Notwithstanding the foregoing, Panorama shall be bound by and adhere to all Regulations and Policies of the Clark County School District, including, but not limited to, those regulations that limit or preclude the right to use Client Data for marketing or other commercial purposes.

4. Section 2.5 shall be deleted in its entirety and the following Section 2.5 shall be inserted in its place:

"2.5 Data Security. Panorama will implement and maintain reasonable administrative, physical and technical safeguards ("Safeguards") for the purpose of preventing any collection, use or disclosure of, or access to Client Data, except as may be specifically authorized by Client herein, including, without limitation, an information security program that meets commercially reasonable industry practice to safeguard Client Data, including but not limited to Personal Data in accordance with the requirements of FERPA. Such information security program includes: (a) physical security of all premises in which Client Data will be processed and/or stored; and (b) reasonable precautions taken with respect to the employment of, access given to, and education and training of any and all personnel furnished or engaged by Panorama to perform any part of the services hereunder."

5. Section 2.6 shall be amended to add the following:

The current paragraph under Privacy Policy will be numbered 2.6.1

2.6.2 In addition to the foregoing, Panorama agrees to apply reasonable administrative, physical, and technical Safeguards and privacy protections to the employee data and surveys. CCSD will provide the following employee data to Panorama, which is publicly available information: school name, school identification number, employee name, employee work email, employee role/job title. If an employee takes a survey, they may voluntarily input their employee identification number, gender, and race.

2.6.3 In addition to the foregoing, Panorama agrees that it will protect the privacy of student information:

- a. Protect student education records and other personally identifiable and/or confidential information in accordance with the Family Education Rights and Privacy Act ("FERPA"). 20 U.S.C. §1232g; 34 C.F.R. Part 99; NRS 392.029; NRS 388.272.
 - Personally identifiable information has the same meaning as defined under FERPA at C.F.R. § 99.3.
 - Education record has the same meaning as defined under FERPA at C.F.R. § 99.3.
 - Deidentified data, as used in this Agreement, means data from which all personally identifiable information has been removed or obscured so that a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, would not be able to identify any individual student or parent with reasonable certainty. 34 C.F.R. § 99.31(b)(1); 34 C.F.R. § 99.3.
- b. Protect student information under the Protection of Pupil Rights Amendment ("PPRA"). 20 U.S.C. §1232h; 34 C.F.R. Part 98; NRS 392.029; NRS 388.272.
 - PPRA applies to certain surveys, analysis, or evaluations that ask students to respond in any manner that reveals information concerning: (1) political affiliations or beliefs of

the student or the student's family; (2) mental or psychological problems of the student or the student's family; (3) sex behavior or attitudes; (4) illegal, anti-social, self-incriminating, or demeaning behavior; (5) critical appraisals of other individuals with whom respondents have close family relationships; (6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, or ministers; (7) religious practices, affiliations, or beliefs of the student or student's parent; or (8) income. 20 U.S.C. §1232h.

- PPRA allows for student participation in certain surveys, analysis, or evaluations that concern one of eight (8) protected areas if parents are provided notice of the survey and are given an opportunity to opt the student out of participation in the survey. 20 U.S.C. §1232h(c)(2); 34 C.F.R. Part 98. CCSD will provide parents with notice and an opportunity to opt out of the Panorama Student Competency and Well-Being survey.
- c. FERPA generally requires written consent from parents to release personally identifiable student information from education records. However, FERPA permits an educational agency to disclose personally identifiable information from an education record of a student without consent if the disclosure meets one or more of the conditions outlined in 20 U.S.C. § 1232g. The FERPA studies exception applies to the Panorama Student Competency and Well-Being survey.
- d. The studies and services conducted pursuant to this Agreement will be done in accordance with FERPA. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. Part 99; NRS 392.029; NRS 388.272.
- e. The purpose and scope of the studies is to improve programs and instruction to enhance student achievement in education. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. § 99.31(a)(6)(i).

In order to enhance student learning, CCSD will use the Panorama platform to conduct the Panorama Student Competency and Well-Being survey to gather information regarding students' social emotional well-being. Student well-being is critical to academic success, mental health, economic prosperity, and relationship success.

- f. The following data will be released to Panorama under this Agreement: student name, student identification number, student email address, school of attendance, grade level, date of birth, gender, race, and student's responses on the Panorama Student Competency and Well-Being survey. Panorama will also obtain school roster data. There will be a Panorama survey for students in Grades 3-5 and a separate Panorama survey for students in Grades 6-12. Students will create their own Panorama account by providing their name, student identification number, student email address, school of attendance, grade level, date of birth, gender, and race. Students will then use the platform to respond to the Panorama Student Competency and Well-Being survey. Unless a student or parent opts out, teachers may assist students with creating an account.
- g. Panorama will not collect, use, or disclose student personally identifiable information except as permitted by this Agreement or as required by law without approval of CCSD. 20 U.S.C. § 1232g; 34 C.F.R. § 99.31(a)(6)(iii)(C)(2); NRS 392.029; NRS 388.272.
- h. Panorama will not conduct any other survey, analysis, or evaluation except as permitted by this Agreement or as required by law without approval of CCSD. 20 U.S.C. §1232h; 34 C.F.R. Part 98; NRS 392.029; NRS 388.272.
- i. Panorama will conduct the services in a manner that does not permit personal identification of parents and students by anyone other than representatives of Panorama with legitimate interests. 34 C.F.R. § 99.31(a)(6)(iii)(C)(3).
- j. Panorama will not (i) use student personally identifiable information for advertising

purposes; (ii) use student personally identifiable information to amass a profile about a student except in furtherance of the services provided under this Agreement; or (iii) sell student personally identifiable information.

- k. Panorama agrees that it will destroy all student personally identifiable information within its possession, custody, or control within sixty (60) days following the time that such information is no longer needed for the purposes for which this Agreement was conducted or upon notice from CCSD. Upon destruction of the information, Panorama will promptly certify in writing to CCSD that this destruction has occurred. Nothing in the Agreement authorizes Panorama to maintain student personally identifiable information beyond this time period without the consent of CCSD, which shall not unreasonably be withheld.

U.S.C. § 1232g; 34 C.F.R. § 99.31(a)(6)(iii)(C)(4); NRS 392.029; NRS 388.272.

- l. Notwithstanding the foregoing, and consistent with FERPA and PPRA, Panorama may use and disclose de-identified data (as defined above); provided, however, that Panorama agrees not to attempt to re-identify the data and not to disclose such data to any third party unless that third party agrees not to attempt to re-identify the data.
- m. CCSD has the right to conduct audits or other monitoring activities of Panorama's policies, procedures, and systems, subject to Panorama's agreement for frequency and schedule, not to be unreasonably withheld.
- n. Panorama acknowledges that it provides training for its employees about FERPA and PPRA and how to protect education records, and that it has appropriate disciplinary policies for employees that violate FERPA and PPRA.
- o. Each party is independently required to comply with the requirements of FERPA and PPRA. Each party agrees that it shall not be liable for any violation of any provision of FERPA or

PPRA directly or indirectly relating to, arising out of, or resulting from, or in any manner attributable to, the actions of the other party.

- p. Panorama acknowledges that it has a sound data security plan and data stewardship program.

6. 2.6.4 The Agreement is covered by two exceptions to the Family Educational Rights and Privacy Act ("FERPA").

- a. The FERPA studies exception applies to the Panorama Agreement, which is set forth fully in this Addendum dated. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. § 99.31(a)(6).
- b. The FERPA school official exception also applies to the Panorama Agreement. Panorama is a contractor or outside service provider with whom CCSD has outsourced institutional services or functions that it would otherwise use employees to perform, including, but not limited to, addressing student social emotional well-being. 20 U.S.C. § 1232g(b)(1); 34 C.F.R. § 99.31(a)(1). For purposes of FERPA, Panorama constitutes a school official with a legitimate educational interest in obtaining access to education records, and will only have access to those particular education records in which they have a legitimate educational interest. 20 U.S.C. § 1232g(b)(1); 34 C.F.R. § 99.31(a)(1). The data to be released is set forth fully in this Addendum. Panorama will be under the direct control of CCSD with respect to the maintenance and use of personally identifiable information from education records provided under the Agreement. 34 C.F.R. § 99.31(a)(1). Panorama is subject to the same conditions on the use and re-disclosure of personally identifiable information from education records that govern other school officials, including 34 C.F.R. § 99.33 and the requirements established by CCSD. The Parties will comply with all applicable FERPA requirements and security safeguards as set forth more fully in this Addendum.

7. Section 4.3 of the Terms and Services shall be amended to include 9 (Insurance) as part of the survival clause.
8. The first full sentence of Section 5.1 shall be amended to state as follows:
- “5.1 As used herein, “Confidential Information” means, subject to the exceptions set forth in the following sentence, any information or data regardless of whether it is in tangible form, disclosed by either party (the “Disclosing Party”) that the Disclosing Party has either marked as confidential or proprietary, or has identified in writing as confidential or proprietary within thirty (30) days of disclosure to the other Party (“the “Receiving Party”); provided, however, that a Disclosing Party’s business plans, strategies, technology, research and development, and current and prospective Clients will be deemed Confidential Information of the Disclosing Party even if not so marked or identified. For the avoidance of doubt, Confidential Information does not include Personal Data because protection of Personal Data is addressed in Sections 2.5 and 2.6.”
9. The fourth full sentence of Section 5.1 shall be amended to state as follows:
- “Each Party acknowledges that the Confidential Information constitutes valuable trade secrets, proprietary information or other information of which the disclosure is prohibited by law, and each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and as required or allowed by law and each party will not disclose or permit to be disclosed the same directly or indirectly to any third party without the other party’s prior written consent.”
10. The first full sentence of Section 7.4 shall be amended to state as follows:
- “Except for the liability for which Client is responsible under Section 7.5, Panorama will indemnify, defend and hold Client and the officers, directors, agents, Trustees and Employees of Client (“Client Indemnified Parties”) harmless from settlement amounts, judgments, arbitration awards, damages, liabilities, penalties, costs and expenses (“Liabilities”) that are payable to any third party

or incurred by the Client Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegations which are caused by Panorama, including, without limitation, alleged copyright infringement or misappropriation of the third party's trade secrets, except as limited herein."

11. Section 8⁵ of the Terms and Conditions shall be amended by deleting the following sentence in its entirety: "In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees."

12. The last sentence of Section 8^{8.7} of the Terms and Conditions shall be amended as follows: "For all disputes relating to this Agreement, each party submits to the exclusive jurisdiction of the state and federal courts located in Clark County, Nevada and waives any jurisdictional, venue, or inconvenience forum objections to such courts."

13. The Terms and Conditions shall be amended to insert a new Section 9 which will be titled "INSURANCE" and include the following language:

9 INSURANCE

9.1 Insurance: Panorama shall be responsible for maintaining insurance coverage in force for the life of the Agreement. The insurance company(ies) must have an A.M. Best rating of A- VI or better and be licensed to write such insurance in the state of Nevada. Prior to commencement of services provide the CCSD certificate(s) of insurance verifying the coverage. The insurance carrier shall give CCSD a thirty (30) day written advance notice of any termination, expiration, or any and all changes in coverage. Deductibles and self-insurance retentions shall be declared in the certificate(s) of insurance. All deductibles and retentions are the sole responsibility of Panorama to pay. Certificates shall verify the following coverages:



(a) Professional Liability (Errors & Omissions) with minimum limits of at least \$1,000,000 per occurrence. The insurance required above may be provided under primary policies or by a combination of primary and excess policies.

(b) Cyber Liability with minimum amounts of at least \$1,000,000 per occurrence for claims involving privacy violations, information theft, intentional and/or unintentional release and/or extortion.


(c) Reference your certificate of insurance to the Clark County School District, Attention: Purchasing Department, 4212 Eucalyptus Avenue, Bldg. #7, Las Vegas, NV 89121, and indicate the PS number.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby:

CLARK COUNTY SCHOOL DISTRICT

PANORAMA

By 

By 

Purchasing Administrator

Authorized Company Representative

Printed Name STEVE STAUGS

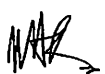
Printed Name Mike Rodriguez

Title PURCHASING DIRECTOR

Title Contract Manager

Date 8/29/22

Date 08 / 24 / 2022



TITLE	Panorama <> CCSD 2022- 2024 SY Agreement
FILE NAME	Panorama - Servic... 2022-2024 MR.pdf
DOCUMENT ID	a4d15be77b334306350a9be3f151b4e714b136fc
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	o Signed

Document History



08 / 24 / 2022
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Sent for signature to finance (contracts@panoramaed.com)
from jevans@panoramaed.com



08 / 24 / 2022
15:45:18 UTC

Viewed by finance (contracts@panoramaed.com)



08 / 24 / 2022
16:29:52 UTC

Signed by finance (contracts@panoramaed.com)




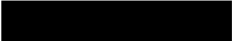




COMPLETED

08 / 24 / 2022
16:29:52 UTC

The document has been completed.

TITLE	CCSD <> Panorama SEL Surveys 2022-24 SY, August 25th
FILE NAME	Panorama - Changes 8.24.22.pdf
DOCUMENT ID	0bc4cd15731ebe12198a5ea03a132831f3267f55
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	◦ Signed

Document History

 SENT	08 / 25 / 2022 19:12:15 UTC	Sent for signature to finance (contracts@panoramaed.com) from jevans@panoramaed.com 
 VIEWED	08 / 25 / 2022 19:12:29 UTC	Viewed by finance (contracts@panoramaed.com) 
 SIGNED	08 / 25 / 2022 19:33:07 UTC	Signed by finance (contracts@panoramaed.com) 
 COMPLETED	08 / 25 / 2022 19:33:07 UTC	The document has been completed.

PANORAMA EDUCATION - SERVICE ORDER



Primary Contact Information			
Client		Panorama Education, Inc. ("Panorama")	
Client Legal Name ("Client")	Clark County School District	Company Name	Panorama Education, Inc.
Primary Contact, Title	Christopher Merritt	Primary Contact, Title	Jillian Evans, Sr Account Director
Billing / Payment Address	5100 W Sahara Ave	Billing Address	24 School St. Fourth Floor
City / State / Zip	Las Vegas, NV 89146	City / State / Zip	Boston, MA 02108
Primary Contact Email Address	merricr@nv.ccsd.net	Email	jevans@panoramaed.com
Primary Contact Phone Number	(702) 799-0761	Phone	(617) 356-8123
Accounts Payable Contact	CCSD Purchasing		
Accounts Payable Email Address	bodetdm@nv.ccsd.net		
Accounts Payable Phone Number	(702) 799-5225		
Purchase Order Required?	Yes [x] No []		
(1) Description of Services and (2) Fees			
Description of Services		Fees	
Annual Licenses:		Effective Date:	11/3/2024
Panorama Platform License Fee: Student and Adult SEL and Well-Being All students and staff across the district Access to Platform and Support (as defined in the Terms and Conditions): Survey administration, analysis and reporting. <ul style="list-style-type: none"> 315,000 student survey participants 40,000 adult survey participants 		Contract Term: (From Effective Date)	1 year
Project Management Includes a dedicated project team who will work with Clark County School District to execute a successful program. <ul style="list-style-type: none"> Develop project timeline Manage setup and administration Customize report configurations Coordinate rollout of reports Sync the platform directly with CCSD's SIS 		Annual License Fee:	\$785,999 / year

PANORAMA EDUCATION - SERVICE ORDER



		Annual Total: <i>(Invoiced on Effective Date)</i>	\$ 785,999 / year
		Total Over Contract Term:	\$ 785,999
(3) Agreement			
The entire agreement by and between Client and Panorama (" <u>Agreement</u> ") consists of (i) the terms set forth in this Service Order (" <u>SO</u> ") and (ii) the terms attached as Exhibit A to, and hereby incorporated by reference into, this SO (" <u>Terms</u> ").			
(4) Supplemental Terms and Conditions (if any)			
Authorization			
By signing below, Client and Panorama ACCEPT AND AGREE TO the Agreement as of the Effective Date.			
Client Signature:	Print Name, Title:	Date:	
Panorama Signature:	Print Name, Title:	Date:	

Exhibit A
Terms

BACKGROUND

Panorama is an education technology company that provides a cloud-based platform-as-a-service and related support services to enable schools and school districts to analyze student and school data, measure social-emotional learning, and design and implement survey programs for students, staff and parents or authorized guardians ("Platform"). The client named on the Service Order attached hereto ("Client") and Panorama have entered into an agreement consisting of the attached Service Order, including any exhibits attached thereto, ("SO"), these terms ("Terms") and collectively with the SO, ("Agreement"). From time to time hereafter, Client and Panorama may enter into additional service orders pursuant to which Client may purchase additional rights to use the Platform and receive additional services, provided that these Terms will be incorporated by reference into and apply to each such additional service order to create a separate agreement that governs each such additional service order, in each case to the exclusion of any other terms or conditions that either party seeks to impose or incorporate or that are implied by course of dealing.

1 RIGHT TO USE PLATFORM

1.1 Platform. Subject to this Agreement, Panorama hereby grants Client (including Client's students, employees, and parents and authorized guardians of Client's students, all as applicable and described in the relevant SO, ("Authorized Users")), the limited, nonexclusive, nontransferable, non-sublicenseable right to access and use the Platform via the Internet during the Term solely for Client's use, in accordance with applicable laws and regulations and the Platform's intended uses as communicated to Client by Panorama.

1.2 Limitations. Except as expressly permitted in the Agreement, Client will not and will not authorize or allow any third party to: (a) provide access to the Platform to any person who is not an Authorized User or (b) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Platform; (c) modify, translate or create derivative works based on the Platform; (d) copy, rent, lease, distribute, pledge, assign or otherwise transfer or allow any lien, security interest or other encumbrance on the Platform; (e) use the Platform for timesharing or service bureau purposes or otherwise for the benefit of a third party; (f) hack, manipulate, interfere with or disrupt the integrity or performance of or otherwise attempt to gain unauthorized access to the Platform or its related systems, hardware or networks or any content or technology incorporated in any of the foregoing; or (g) remove or obscure any proprietary notices or labels of Panorama or its suppliers on the Platform or on any printed or digital materials provided by Panorama.

1.3 Compliance with Laws. Panorama is responsible for compliance with federal, state local laws and regulations to the extent they govern Panorama's activities, including providing the Platform to Client. Client is responsible for compliance with federal, state and local laws and regulations to the extent they

govern Client's activities, including but not limited to the use by Client of the Platform to collect, record, retain, use and disclose any individual's information. Without limiting the foregoing, each party is responsible for determining its own obligations, including but not limited to notice and consent obligations, under the Family Educational Right to Privacy Act and its implementing regulations ("FERPA") and the Protection of Pupil Rights Act and its implementing regulations ("PPRA"). The parties agree that they intend for the collection and use of personally identifiable information (as defined under FERPA) for only legitimate educational purposes and other purposes allowed under relevant laws, including but not limited to FERPA and PPRA. Client hereby gives its consent to Panorama on behalf of parents (as defined under FERPA, PPRA and the Children's Online Privacy Protection Act ("COPPA")) of children from whom any personal information (as defined under COPPA) may be gathered in connection with this Agreement and the Platform. Panorama shall not be obligated to obtain consents from parents directly.

2 INTELLECTUAL PROPERTY; PRIVACY; SECURITY

2.1 Client Data. As between Client and Panorama, Client owns data input into the Platform, or otherwise provided to Panorama, by Client and Authorized Users, that constitutes personally identifiable information (as defined under FERPA), such as student survey responses reported on an individual level, ("Client PII") and (b) any other data and content input into the Platform, or otherwise provided to Panorama, by Client and Authorized Users or on their behalf, such as survey questions, ("Non-PII" and together with PII "Client Data"). Client hereby grants Panorama a nonexclusive, worldwide, royalty-free, fully paid up, sublicenseable (through multiple tiers): (i) right and license during the Term to copy, distribute, display, create derivative works of and use Client Data to perform Panorama's obligations under this Agreement; (ii) perpetual, irrevocable right and license to copy, modify and use Client PII to create aggregated, non-personally identifiable data sets ("Blind Data") and copy, distribute, display, create derivative works of and use Blind Data for benchmarking, research or development purposes, including published research; and (iii) perpetual, irrevocable right and license to copy, distribute, display, create derivative works of and use Non-PII, for any and all purposes, in any form, media or manner. Client reserves any and all right, title and interest in and to Client Data other than the licenses therein expressly granted to Panorama under this Agreement.

2.2 Panorama Intellectual Property. Panorama retains all right, title and interest in and to the Platform, including but not limited to learning content, teaching materials, survey questions, underlying research and methodologies (by whomever produced except to the extent Client produced such material), all copies and parts of any of the foregoing, and all intellectual property rights therein. Panorama grants no, and reserves any and all, rights other than the rights expressly granted to Client under this Agreement with respect to the Platform.

2.3 Client Feedback. Client may from time to time provide suggestions, comments for enhancements or functionality or

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Terms

other feedback ("Feedback") to Panorama with respect to the Platform. Panorama has full discretion to determine whether to proceed with development of the requested enhancements, features or functionality. Client hereby grants Panorama a royalty-free, fully paid-up, worldwide, transferable, sublicenseable, irrevocable, perpetual license to: (a) copy, distribute, transmit, display, perform, and create derivative works of the Feedback in whole or in part; and (b) use the Feedback in whole or in part, including without limitation, the right to develop, manufacture, have manufactured, market, promote, sell, have sold, offer for sale, have offered for sale, import, have imported, rent, provide and lease products or services that practice or embody, or are configured for use in practicing, the Feedback in whole or in part.

2.4 Panorama Privacy Policy. Panorama's Privacy Statement, as may be amended from time to time, is available at <https://www.panoramaed.com/privacy>.

2.5 Data Security and Privacy.

(a) Panorama will implement and maintain an information security program that is consistent with industry recognized practices, which include using commercially reasonable administrative, physical and technical safeguards designed to protect the Platform from unauthorized access that could compromise the security, confidentiality or integrity of Client PII. Panorama shall: (i) use reasonable efforts to secure physical premises where Client PII will be processed and/or stored and (ii) take reasonable precautions with respect to the employment of, access given to, and education and training of personnel engaged by Panorama to perform its obligations under this Agreement.

(b) Client will and will instruct its Authorized Users to: (i) use the Platform to collect, record, retain, use and disclose personally identifiable information only to the extent necessary for its legitimate educational purposes; (ii) otherwise provide Panorama with personally identifiable information only to the extent necessary for Panorama to provide the Platform and perform its obligations under the Agreement; (iii) input personally identifiable information into the Platform only as prescribed by Panorama and only in the fields designated by Panorama ("Structured Fields"); (iv) use reasonable efforts to prevent unauthorized access to or use of the Platform; and (v) notify Panorama promptly of any known or suspected unauthorized access or use. Client will assist Panorama in all efforts to investigate and mitigate the effects of any such incident.

(c) If during the Term or upon termination of this Agreement Client requests in writing, Panorama will delete or otherwise render unrecoverable Client PII in Panorama's possession in a manner consistent with media sanitization practices described under industry recognized standards.

(d) Panorama shall not be responsible for any personally identifiable information input into the Platform in a manner not prescribed by Panorama or in a field that is not a Structured Field.

3 FEES; PAYMENT TERMS

3.1 Fees; Payment Terms. Unless otherwise indicated on the SO, Client will pay all fees within thirty (30) days of the invoice date. If payment of any fee is not made when due and payable, a late fee will accrue at the rate of the lesser of one and one-half percent (1.5%) per month or the highest legal rate permitted by law and Client will pay all reasonable expenses of collection. In addition, if any past due payment has not been received by Panorama within thirty (30) days from the time such payment is due, Panorama may upon written notice to Client suspend access to the Platform until such payment is made.

3.2 Taxes; Tax Exemption. All amounts payable by Client to Panorama hereunder are exclusive of any sales, use and other taxes or duties, however designated, including without limitation, withholding taxes, royalties, know-how payments, customs, privilege, excise, sales, use, value-added and property taxes (collectively "Taxes"). To the extent applicable, Client will be solely responsible for payment of all Taxes and will not withhold any Taxes from any amounts due Panorama. For the avoidance of doubt, Taxes do not include taxes based on Panorama's income. Client is responsible for determining whether it qualifies for any tax exemption, and if Client claims it is tax-exempt, it will, upon request from Panorama, provide documentation evidencing its tax-exempt status.

4 TERM, TERMINATION

4.1 Term. The term of the Agreement will commence on the Effective Date and, unless earlier terminated in accordance with this Section 4, will continue through the date set forth on the SO ("Term").

4.2 Expiration; Termination. In addition to any other remedies it may have, either party may terminate the Agreement prior to expiration if the other party breaches any part of the Agreement and fails to cure such breach within thirty (30) days after receiving notice thereof. Upon expiration or any termination for any reason of the Agreement: (a) Client will pay in full for use of the Platform up to and including the last day on which the Platform is provided; (b) Panorama may, without notice to Client, delete or otherwise render unrecoverable Client PII in Panorama's possession in a manner consistent with media sanitization practices described under industry recognized standards; and (c) all rights granted to Client and all obligations of Panorama will immediately terminate and Client will promptly cease use of the Platform.

4.3 Survival. Upon expiration or termination for any reason of the Agreement, Sections 2 (Intellectual Property; Privacy; Security), 3 (Fees; Payment Terms), 4.2 (Termination; Effect of Termination), 4.3 (Survival), 5 (Confidentiality), 6.2 (Disclaimer), 7 (Limitations of Liability; Indemnification), and 8 (General) will survive.

5 CONFIDENTIALITY

5.1 As used herein, "Confidential Information" means, subject to the exceptions set forth in the following sentence, any information or data that is not Client PII, regardless of whether it is in tangible form, disclosed by either party

Exhibit A

Terms

("Disclosing Party") that Disclosing Party has either marked as confidential or proprietary, or has identified in writing as confidential or proprietary within thirty (30) days of disclosure to the other party ("Receiving Party"); provided, however, that a Disclosing Party's business plans, strategies, technology, research and development, current and prospective clients and customers, billing records, and products or services will be deemed Confidential Information of Disclosing Party even if not so marked or identified. Panorama's Confidential Information includes, without limitation, the Platform and this Agreement. Information will not be deemed Confidential Information" if such information: (a) is known to the Receiving Party prior to receipt from Disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to Disclosing Party; (b) becomes known (independently of disclosure by Disclosing Party) to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to Disclosing Party; or (c) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the Receiving Party. Each party acknowledges that certain Confidential Information may constitute valuable trade secrets and proprietary information of a party, and each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and will not disclose, or permit to be disclosed, the same directly or indirectly, to any third party without the other party's prior written consent, except as otherwise permitted hereunder. Each party will use reasonable measures to protect the confidentiality and value of the other party's Confidential Information. Notwithstanding any provision of this Agreement, either party may disclose the terms of the Agreement, in whole or in part (i) to its employees, officers, directors, professional advisers (e.g., attorneys, auditors, financial advisors, accountants and other professional representatives), existing and prospective investors or acquirers contemplating a potential investment in or acquisition of a party, sources of debt financing, acquirers and/or subcontractors who have a need to know and are legally bound to keep such Confidential Information confidential by confidentiality obligations or, in the case of professional advisors, are bound by ethical duties to keep such Confidential Information confidential consistent with the terms of this Agreement; and (ii) as reasonably deemed by a party to be required by law (in which case each party will provide the other with prior written notification thereof, will provide such party with the opportunity to contest such disclosure, and will use its reasonable efforts to minimize such disclosure to the extent permitted by applicable law). Each party agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. In the event of actual or threatened breach of the provisions of this Section, the non-breaching party will be entitled to seek immediate injunctive and other equitable relief, without waiving any other rights or remedies available to it. Each party will promptly notify the other in writing if it becomes aware of any violations of the confidentiality obligations set forth in the Agreement. Upon Disclosing Party's written request, Receiving Party will either promptly return to Disclosing Party Disclosing Party's Confidential Information, and all embodiments thereof,

that is in Receiving Party's possession and certify such return or use reasonable efforts to delete or otherwise render inaccessible such Confidential Information and certify the same.

6 REPRESENTATIONS, WARRANTIES AND DISCLAIMER

6.1 Representations and Warranties. Each party represents and warrants to the other party that (a) such party has the required power and authority to enter into this Agreement and to perform its obligations hereunder, (b) the execution of this Agreement and performance of its obligations thereunder do not and will not violate any other agreement to which it is a party or any law or regulation applicable to it, and (c) this Agreement constitutes a legal, valid and binding obligation when signed by both parties. Client further represents and warrants that it has the right to provide Client Data to Panorama as well as the licenses and rights therein and thereto for the purposes contemplated by this Agreement.

6.2 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE PLATFORM IS PROVIDED ON AN "AS-IS" BASIS AND PANORAMA DISCLAIMS ANY AND ALL WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. ALL OTHER EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. EACH PARTY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. NEITHER PARTY WARRANTS AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE PRODUCTS OR SERVICES PROVIDED BY SUCH PARTY OR AGAINST INFRINGEMENT. NEITHER PARTY WARRANTS THAT THE PRODUCTS OR SERVICES PROVIDED BY SUCH PARTY ARE ERROR-FREE OR THAT OPERATION OF SUCH PARTY'S PRODUCTS OR SERVICES WILL BE SECURE OR UNINTERRUPTED. NEITHER PARTY WILL HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF THE OTHER PARTY TO ANY THIRD PARTY.

7 LIMITATIONS OF LIABILITY; INDEMNIFICATION

7.1 Disclaimer of Consequential Damages. THE PARTIES HERETO AGREE THAT, NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, EXCEPT FOR LIABILITY ARISING OUT OF (A) CLIENT'S USE OF THE PLATFORM OTHER THAN EXPRESSLY PERMITTED BY SECTION 1 (RIGHT TO USE PLATFORM), (B) EITHER PARTY'S BREACH OF SECTION 5 (CONFIDENTIALITY), AND (C) A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 7.4 AND 7.5 BELOW, AS APPLICABLE, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, RELIANCE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, LOST OR DAMAGED DATA, LOST PROFITS OR LOST REVENUE, WHETHER ARISING IN CONTRACT, TORT (INCLUDING

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NEGLIGENCE), OR OTHERWISE, EVEN IF A PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY THEREOF.

7.2 General Cap on Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EXCEPT FOR LIABILITY ARISING OUT OF (A) CLIENT'S USE OF THE PLATFORM OTHER THAN EXPRESSLY PERMITTED BY SECTION 1 (RIGHT TO USE PLATFORM), (B) EITHER PARTY'S BREACH OF SECTION 5 (CONFIDENTIALITY), AND (C) A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 7.4 AND 7.5 BELOW, AS APPLICABLE, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S LIABILITY FOR ALL CLAIMS ARISING UNDER OR RELATING TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE AGGREGATE FEES PAID BY CLIENT TO PANORAMA UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

7.3 Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THEY HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

7.4 Indemnification by Panorama. Except for liability for which Client is responsible under Section 7.5, Panorama will indemnify, defend and hold Client and the officers, directors, agents, and employees of Client ("Client Indemnified Parties") harmless from settlement amounts and damages, liabilities, penalties, costs and expenses ("Liabilities") that are payable to any third party or incurred by the Client Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegation that the use of the Platform in accordance with the terms and conditions of this Agreement infringes such third party's copyright or results in a misappropriation of such third party's trade secrets. Panorama will have no liability or obligation under this Section 7.4 if such Liability is caused in whole or in part by (a) modification of the Platform by any party other than Panorama without Panorama's express consent; (b) the combination, operation, or use of the Platform with other product(s), data or services not provided by Panorama where the Platform would not by itself be infringing; or (c) unauthorized or improper use of the Platform. If the use of the Platform by Client has become, or in Panorama's opinion is likely to become, the subject of any claim of infringement, Panorama may at its option and expense (i) procure for Client the right to continue using the Platform as set forth hereunder; (ii) replace or modify the Platform to make it non-infringing so long as the Platform has at least equivalent functionality; (iii) substitute an equivalent for the Platform or (iv) if options (i)-(iii)

are not available on commercially reasonable terms, terminate the Agreement. This Section 7.4 states Panorama's entire obligation and Client's sole remedies in connection with any claim regarding the intellectual property rights of any third party.

7.5 Indemnification by Client. Client will indemnify, defend and hold Panorama and the officers, directors, agents, and employees of Panorama ("Panorama Indemnified Parties") harmless from Liabilities that are payable to any third party or incurred by the Panorama Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegation arising from or related to any use by Client or Authorized Users of the Platform or Client Data in violation of the Agreement or any applicable federal, state or local law or regulation.

7.6 Indemnification Procedure. If a Client Indemnified Party or a Panorama Indemnified Party (each, an "Indemnified Party") becomes aware of any matter it believes it should be indemnified under Section 7.4 or Section 7.5, as applicable, involving any claim, action, suit, investigation, arbitration or other proceeding against the Indemnified Party by any third party (each an "Action"), the Indemnified Party will give the other party ("Indemnifying Party") prompt written notice of such Action. Indemnified Party will cooperate, at the expense of Indemnifying Party, with Indemnifying Party and its counsel in the defense and Indemnified Party will have the right to participate fully, at its own expense, in the defense of such Action with counsel of its own choosing. Any compromise or settlement of an Action will require the prior written consent of both parties hereunder, such consent not to be unreasonably withheld or delayed.

8 GENERAL

8.1 International. Client may not remove or export from, or use from outside, the United States or allow the export or re-export of the Platform or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority.

8.2 Relationship. No agency, partnership, joint venture, or employment is created as a result of the Agreement and a party does not have any authority of any kind to bind the other party in any respect whatsoever.

8.3 Publicity. Each party agrees that it will not, without prior written consent of the other, issue a press release regarding their business relationship. Notwithstanding anything herein to the contrary, Panorama may identify Client and the relationship between Panorama and Client in Panorama's marketing collateral, website, and other promotional, proposal and marketing materials.

8.4 Assignment. Neither party may assign the Agreement by operation of law or otherwise or assign or delegate its rights or obligations under the Agreement without the other party's prior written consent; provided however, that either party may assign the Agreement to an acquirer of or successor to all or substantially all of its business or assets to which the

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Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any assignment or attempted assignment by either party otherwise than in accordance with this Section 8 will be null and void.

8.5 Equitable Relief. In any action or proceeding to enforce rights under the Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. Client acknowledges that any unauthorized use of the Platform will cause irreparable harm and injury to Panorama for which there is no adequate remedy at law. In addition to all other remedies available under the Agreement, at law or in equity, Client further agrees that Panorama will be entitled to injunctive relief in the event Client uses the Platform in violation of the limited license granted herein or uses the Platform in any way not expressly permitted by the Agreement.

8.6 Force Majeure. Each party will be excused from performance for any period during which, and to the extent that, it is prevented from performing any obligation or service, in whole or in part, as a result of a cause beyond its reasonable control and without its fault or negligence, including, but not limited to, acts of God, acts of war, epidemics, fire, communication line failures, power failures, earthquakes, floods, blizzard, or other natural disasters (but excluding failure caused by a party's financial condition or any internal labor problems (including strikes, lockouts, work stoppages or slowdowns, or the threat thereof)) ("**Force Majeure Event**"). Delays in performing obligations due to a Force Majeure Event will automatically extend the deadline for performing such obligations for a period equal to the duration of such Force Majeure Event. Except as otherwise agreed upon by the parties in writing, in the event such non-performance continues for a period of thirty (30) days or more, either party may terminate the Agreement by giving written notice thereof to the other party. Upon the occurrence of any Force Majeure Event, the affected party will give the other party written notice thereof as soon as reasonably practicable of its failure of performance, describing the cause and effect of such failure, and the anticipated duration of its inability to perform.

8.7 Governance. This Agreement will be governed by the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provisions. For all disputes relating to this Agreement, each party submits to the exclusive jurisdiction of the state and federal courts located in Boston, Massachusetts and waives any jurisdictional, venue, or inconvenient forum objections to such courts.

8.8 Agreement. Both parties agree that the Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of the Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. If any provision of the Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that the Agreement will otherwise remain in full force and effect and enforceable. Any additional or different terms proposed by Client, including those contained in Client's procurement order,

acceptance, vendor portal or website, shall not be valid or have any effect unless expressly incorporated into the SO and agreed upon in writing by Panorama. Neither Panorama's acceptance of Client's procurement order nor its failure to object elsewhere to any provisions of any subsequent document, website, communication or act of Client shall be deemed acceptance thereof or a waiver of any of the terms in these Terms. If any term of the SO, including any exhibit attached thereto, expressly conflicts with a term of these Terms, the term of the SO (or if applicable the exhibit) shall prevail. If terms within the SO, including any exhibit attached thereto, and these Terms appear merely inconsistent or ambiguous, all such terms shall be given effect to the extent reasonably possible, with a term that is more specific and detailed on a certain matter prevailing over a more general term or silence on that matter. Silence in the SO, or in any exhibit attached thereto, or in these Terms, on a matter that is addressed elsewhere in the Agreement shall not be deemed to present an express conflict, inconsistency or ambiguity.

8.9 Notices. All notices under the Agreement will be in writing and sent to the recipient's address set forth in the SO and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

ADDENDUM TO PANORAMA EDUCATION – SERVICE ORDER TERMS AND CONDITIONS

This Addendum to Panorama Education-Service Order Terms and Conditions (“Addendum”) shall be appended to and form a part of the Service Order effective November 3, 2024 (“Agreement”), and, to the extent this Addendum is considered an Amendment of the November 3, 2024 Service Order is made in consideration for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

1. The Agreement by and between Clark County School District (“CCSD” or “Client”) consists of the Service Order (“SO”), the Terms and Conditions attached to the SO, and this Addendum to Panorama Education – Service Order Terms and Conditions (“Addendum”).
2. The Description of Services in the Service Order will be amended to also include data transfer, survey administration, analysis, and reporting of CCSD employees.
3. Section 2.1 of the Terms and Conditions shall be deleted in its entirety and the following Section 2.1 shall be inserted in its place:

“2.1 Client Ownership. Client owns (a) any data Client inputs into the Platform that identifies Client or its students, staff or parents (including Authorized Users) and any Survey Responses provided by Client, its students and content provided by Client, its students, staff or parents (including Authorized Users (“Data”) and (b) any other data and content provided by Client or Authorized Users to Panorama or input into the Platform, such as Survey Questions (“Other Data” and, together with the Data, “Client Data”). Client Data that does not contain personally identifiable data or information, as defined by the FERPA statutes and regulations and as more particularly described in Section 2.6, as amended, is referred to herein as “Blind Data.” Client data that does contain personally identifiable data or information, as defined by the FERPA statutes and regulations, or other Confidential Information, as defined herein and as described in Section 2.6, as

amended, shall be referred to herein as "Personal Data." Client hereby grants to Panorama a non-exclusive worldwide, royalty-free fully paid up (i) right and license during the Term to copy, distribute, display and create derivative works of and use the Client Data to perform Panorama's obligations under this Agreement; (ii) perpetual, irrevocable right and license to copy, modify and use Blind Data and to copy, distribute, display, create derivative works of and use the Blind Data for benchmarking, research or development purposes, including published research.

Notwithstanding the foregoing, Panorama shall be bound by and adhere to all Regulations and Policies of the Clark County School District, including, but not limited to, those regulations that limit or preclude the right to use Client Data for marketing or other commercial purposes.

4. Section 2.4 shall be amended to add the following:

The current paragraph under Privacy Policy will be numbered 2.4.1

2.4.2 In addition to the foregoing, Panorama agrees to apply reasonable administrative, physical, and technical Safeguards and privacy protections to the employee data and surveys. CCSD will provide the following employee data to Panorama, which is publicly available information: school name, school identification number, employee name, employee work email, employee role/job title. If an employee takes a survey, they may voluntarily input their employee identification number, gender, and race.

2.4.3 In addition to the foregoing, Panorama agrees that it will protect the privacy of student information:

- a. Protect student education records and other personally identifiable and/or confidential information in accordance with the Family Education Rights and Privacy Act ("FERPA").

20 U.S.C. §1232g; 34 C.F.R. Part 99; NRS 392.029; NRS 388.272.

- Personally identifiable information has the same meaning as defined under FERPA at C.F.R. § 99.3.

- Education record has the same meaning as defined under FERPA at C.F.R. § 99.3.
 - Deidentified data, as used in this Agreement, means data from which all personally identifiable information has been removed or obscured so that a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, would not be able to identify any individual student or parent with reasonable certainty. 34 C.F.R. § 99.31(b)(1); 34 C.F.R. § 99.3.
- b. Protect student information under the Protection of Pupil Rights Amendment (“PPRA”). 20 U.S.C. §1232h; 34 C.F.R. Part 98; NRS 392.029; NRS 388.272.
- PPRA applies to certain surveys, analysis, or evaluations that ask students to respond in any manner that reveals information concerning: (1) political affiliations or beliefs of the student or the student’s family; (2) mental or psychological problems of the student or the student’s family; (3) sex behavior or attitudes; (4) illegal, anti-social, self-incriminating, or demeaning behavior; (5) critical appraisals of other individuals with whom respondents have close family relationships; (6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, or ministers; (7) religious practices, affiliations, or beliefs of the student or student’s parent; or (8) income. 20 U.S.C. §1232h.
 - PPRA allows for student participation in certain surveys, analysis, or evaluations that concern one of eight (8) protected areas if parents are provided notice of the survey and are given an opportunity to opt the student out of participation in the survey. 20 U.S.C. §1232h(c)(2); 34 C.F.R. Part 98. CCSD will provide parents with notice and an opportunity to opt out of the Panorama Student Competency and Well-Being survey.
- c. FERPA generally requires written consent from parents to release personally identifiable

student information from education records. However, FERPA permits an educational agency to disclose personally identifiable information from an education record of a student without consent if the disclosure meets one or more of the conditions outlined in 20 U.S.C. § 1232g. The FERPA studies exception applies to the Panorama Student Competency and Well-Being survey.

- d. The studies and services conducted pursuant to this Agreement will be done in accordance with FERPA. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. Part 99; NRS 392.029; NRS 388.272.
- e. The purpose and scope of the studies is to improve programs and instruction to enhance student achievement in education. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. § 99.31(a)(6)(i). In order to enhance student learning, CCSD will use the Panorama platform to conduct the Panorama Student Competency and Well-Being survey to gather information regarding students' social emotional well-being. Student well-being is critical to academic success, mental health, economic prosperity, and relationship success.
- f. The following data will be released to Panorama under this Agreement: student name, student identification number, student email address, school of attendance, grade level, date of birth, gender, race, and student's responses on the Panorama Student Competency and Well-Being survey. Panorama will also obtain school roster data. There will be a Panorama survey for students in Grades 3-5 and a separate Panorama survey for students in Grades 6-12. Students will create their own Panorama account by providing their name, student identification number, student email address, school of attendance, grade level, date of birth, gender, and race. Students will then use the platform to respond to the Panorama Student Competency and Well-Being survey. Unless a student or parent opts out, teachers may assist students with creating an account.

- g. Panorama will not collect, use, or disclose student personally identifiable information except as permitted by this Agreement or as required by law without approval of CCSD. 20 U.S.C. § 1232g; 34 C.F.R. § 99.31(a)(6)(iii)(C)(2); NRS 392.029; NRS 388.272.
- h. Panorama will not conduct any other survey, analysis, or evaluation except as permitted by this Agreement or as required by law without approval of CCSD. 20 U.S.C. §1232h; 34 C.F.R. Part 98; NRS 392.029; NRS 388.272.
- i. Panorama will conduct the services in a manner that does not permit personal identification of parents and students by anyone other than representatives of Panorama with legitimate interests. 34 C.F.R. § 99.31(a)(6)(iii)(C)(3).
- j. Panorama will not (i) use student personally identifiable information for advertising purposes; (ii) use student personally identifiable information to amass a profile about a student except in furtherance of the services provided under this Agreement; or (iii) sell student personally identifiable information.
- k. Panorama agrees that it will destroy all student personally identifiable information within its possession, custody, or control within sixty (60) days following the time that such information is no longer needed for the purposes for which this Agreement was conducted or upon notice from CCSD. Upon destruction of the information, Panorama will promptly certify in writing to CCSD that this destruction has occurred. Nothing in the Agreement authorizes Panorama to maintain student personally identifiable information beyond this time period without the consent of CCSD, which shall not unreasonably be withheld. U.S.C. § 1232g; 34 C.F.R. § 99.31(a)(6)(iii)(C)(4); NRS 392.029; NRS 388.272.
- l. Notwithstanding the foregoing, and consistent with FERPA and PPRA, Panorama may use and disclose de-identified data (as defined above); provided, however, that Panorama agrees not to attempt to re-identify the data and not to disclose such data to any third party

unless that third party agrees not to attempt to re-identify the data.

- m. CCSD has the right to conduct audits or other monitoring activities of Panorama's policies, procedures, and systems, subject to Panorama's agreement for frequency and schedule, not to be unreasonably withheld.
- n. Panorama acknowledges that it provides training for its employees about FERPA and PPRA and how to protect education records, and that it has appropriate disciplinary policies for employees that violate FERPA and PPRA.
- o. Each party is independently required to comply with the requirements of FERPA and PPRA. Each party agrees that it shall not be liable for any violation of any provision of FERPA or PPRA directly or indirectly relating to, arising out of, or resulting from, or in any manner attributable to, the actions of the other party.
- p. Panorama acknowledges that it has a sound data security plan and data stewardship program.

5. Section 2.5 shall be deleted in its entirety and the following Section 2.5 shall be inserted in its place:

"2.5 Data Security. Panorama will implement and maintain reasonable administrative, physical and technical safeguards ("Safeguards") for the purpose of preventing any collection, use or disclosure of, or access to Client Data, except as may be specifically authorized by Client herein, including, without limitation, an information security program that meets commercially reasonable industry practice to safeguard Client Data, including but not limited to Personal Data in accordance with the requirements of FERPA. Such information security program includes: (a) physical security of all premises in which Client Data will be processed and/or stored; and (b) reasonable precautions taken with respect to the employment of, access given to, and education and training

of any and all personnel furnished or engaged by Panorama to perform any part of the services hereunder.”

6. The Agreement is covered by two exceptions to the Family Educational Rights and Privacy Act (“FERPA”).
 - a. The FERPA studies exception applies to the Panorama Agreement, which is set forth fully in this Addendum dated. 20 U.S.C. § 1232g(b)(1)(F); 34 C.F.R. § 99.31(a)(6).
 - b. The FERPA school official exception also applies to the Panorama Agreement. Panorama is a contractor or outside service provider with whom CCSD has outsourced institutional services or functions that it would otherwise use employees to perform, including, but not limited to, addressing student social emotional well-being. 20 U.S.C. § 1232g(b)(1); 34 C.F.R. § 99.31(a)(1). For purposes of FERPA, Panorama constitutes a school official with a legitimate educational interest in obtaining access to education records, and will only have access to those particular education records in which they have a legitimate educational interest. 20 U.S.C. §1232g(b)(1); 34 C.F.R. § 99.31(a)(1). The data to be released is set forth fully in this Addendum. Panorama will be under the direct control of CCSD with respect to the maintenance and use of personally identifiable information from education records provided under the Agreement. 34 C.F.R. § 99.31(a)(1). Panorama is subject to the same conditions on the use and re-disclosure of personally identifiable information from education records that govern other school officials, including 34 C.F.R. § 99.33 and the requirements established by CCSD. The Parties will comply with all applicable FERPA requirements and security safeguards as set forth more fully in this Addendum.
7. Section 4.3 of the Terms and Services shall be amended to include 9 (Insurance) as part of the survival clause.

8. The first full sentence of Section 5.1 shall be amended to state as follows:

"5.1 As used herein, "Confidential Information" means, subject to the exceptions set forth in the following sentence, any information or data regardless of whether it is in tangible form, disclosed by either party (the "Disclosing Party") that the Disclosing Party has either marked as confidential or proprietary, or has identified in writing as confidential or proprietary within thirty (30) days of disclosure to the other Party ("the "Receiving Party"); provided, however, that a Disclosing Party's business plans, strategies, technology, research and development, current and prospective Clients, billing records, products or services and Personal Data as defined in Section 2.1, will be deemed Confidential Information of the Disclosing Party even if not so marked or identified."

9. The fourth full sentence of Section 5.1 shall be amended to state as follows: "Each Party acknowledges that the Confidential Information constitutes valuable trade secrets, proprietary information or other information of which the disclosure is prohibited by law, and each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and as required or allowed by law and each party will not disclose or permit to be disclosed the same directly or indirectly to any third party without the other party's prior written consent."

10. The first full sentence of Section 7.4 shall be amended to state as follows:

"Except for the liability for which Client is responsible under Section 7.5, Panorama will indemnify, defend and hold Client and the officers, directors, agents, Trustees and Employees of Client ("Client Indemnified Parties") harmless from settlement amounts, judgments, arbitration awards, damages, liabilities, penalties, costs and expenses ("Liabilities") that are payable to any third party or incurred by the Client Indemnified Parties (including reasonable attorneys' fees) arising from any third party claim, demand or allegations which are caused by Panorama, including, without limitation, alleged

copyright infringement or misappropriation of the third party's trade secrets, except as limited herein.

.....”

11. Section 8.5 of the Terms and Conditions shall be amended by deleting the following sentence in its entirety: “In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys’ fees.”
12. The last sentence of Section 8.7 of the Terms and Conditions shall be amended as follows: “For all disputes relating to this Agreement, each party submits to the exclusive jurisdiction of the state and federal courts located in Clark County, Nevada and waives any jurisdictional, venue, or inconvenience forum objections to such courts.”
13. The Terms and Conditions shall be amended to insert a new Section 9 which will be titled “INSURANCE” and include the following language:

9 INSURANCE

9.1 Insurance: Panorama shall be responsible for maintaining insurance coverage in force for the life of the Agreement. The insurance company(ies) must have an A.M. Best rating of A- VI or better and be licensed to write such insurance in the state of Nevada. Prior to commencement of services provide the CCSD certificate(s) of insurance verifying the coverage. The insurance carrier shall give CCSD a thirty (30) day written advance notice of any termination, expiration, or any and all changes in coverage. Deductibles and self-insurance retentions shall be declared in the certificate(s) of insurance. All deductibles and retentions are the sole responsibility of Panorama to pay. Certificates shall verify the following coverages:

- (a) Professional Liability (Errors & Omissions) with minimum limits of at least \$1,000,000 per occurrence. The insurance required above may be provided under primary policies or by a combination of primary and excess policies.

(b) Cyber Liability with minimum amounts of at least \$1,000,000 per occurrence for claims involving privacy violations, information theft, intentional and/or unintentional release and/or extortion.


(c) Reference your certificate of insurance to the Clark County School District, Attention: Purchasing Department, 4212 Eucalyptus Avenue, Bldg. #7, Las Vegas, NV 89121, and indicate the PS number.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby:

CLARK COUNTY SCHOOL DISTRICT

PANORAMA

By 

By 

Purchasing Administrator

Authorized Company Representative

Printed Name STEVE STALOS

Printed Name Michael Reynolds

Title PURCHASING DIRECTOR

Title Sr. Dir., Legal

Date 7/22/2024

Date 07 / 29 / 2024

Title	CCSD <> Panorama, 2024-25 SY
File name	PS_21-13_Order_pa...r_FY24-25__1_.pdf
Document ID	21446bad90de0c4fa7855d5e5aabd48e9a608cf0
Audit trail date format	MM / DD / YYYY
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