**DATA SHARING AND CONFIDENTIALITY AGREEMENT**

This Data Sharing and Confidentiality Agreement (the “Agreement”) is made and entered into by and between MaxScholar LLC (the “Vendor”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**WHEREAS**, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and MaxScholar are parties to a contract or other written agreement (the “Contract”) pursuant to which the Vendor will receive student data and/or teacher or principal data (“Protected Data”) that is protected for purposes of providing certain products or services to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**WHEREAS**, both \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. and MaxScholar are desirous of fulfilling their respective obligation.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained in the Contract, as well as, this Agreement the parties hereto mutually agree as follows:

 **1. Confidentiality**

a. MaxScholar, its employees, and/or agents agree that all information obtained in connection with the services provided for in the Agreement is deemed confidential information.

b. MaxScholar further agrees to maintain the confidentiality of the Protected Data it receives in accordance with federal and state law and that any information obtained will not be revealed to any persons, firms, or organizations.

 **2. Data Protections and Internal Controls**

a. MaxScholar acknowledges that it may receive and /or meet personally identifiable information that directly relate to a student(s) (hereinafter referred to as “education record”).

b. MaxScholar understands and acknowledges that it shall have in place sufficient protections and internal controls to ensure that information is safeguarded in accordance with applicable laws and regulations, and understands and agrees that it is responsible for complying with state data security and privacy standards for all personally identifiable information from education records, and it shall”

1. Limit internal access to education records to those individuals that are determined to have legitimate educational interests; and

2. Not use the education records for any other purpose than those explicitly authorized in the Contract and/or Agreement; and

3. Maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of education records in its custody; and

4. to use encryption technology to protect Protected Data in its custody while in motion or at rest, using a technology or methodology specified by the secretary of the United States Dep[ardent of Health and Human Services in guidance issued under Section 123402(H)(2) of Public Law 111-5.

 **3.** **Data Security and Privacy Plan**

a. MaxScholar aggress to have a Data Security and Privacy Plan in place to protect the confidentiality, privacy and security of the Protected Data it receives from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

b. MaxScholar understands and agrees that it is responsible for submitting a Data Security and Privacy Plan to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Prior to the start of the term of this Agreement, and it shall:

1. Outline how all state, federal and local data security and privacy contract requirements will be implemented over the life of the contract consistent with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Policy on data security and privacy, as adopted.

2. Outline specific administrative, operational and technical safeguards and practices in place to protect Protected Data that it receives from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ under the Contract.

3. Outline the training requirement established by MaxScholar for all employees who will receive personally identifiable information from student records (hereinafter referred to as “student data.).

 **4. Notice of Breach and Unauthorized Release**

a. In the event of a breach of this Agreement and unauthorized release of student date, MaxScholar shall:

1. immediately notify \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. In the most expedient way possible and without unreasonable delay, but no more than seven (7) calendar days after MaxScholar has discovered or been informed of the breach or authorized release.

2. Advise \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as to the nature of the breach and stops MaxScholar has taken to minimize said breach.­

 b. In the case of required notification to a parent or eligible student, MaxScholar shall:

1. Promptly reimburse \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the full costs of such notification.

c. MaxScholar will cooperate with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and provide as much information as possible directly to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ about the incident, including, but not limited to:

 1. The description of the incident;

 2. The date of the incident;

 3. The date MaxScholar discovered or was informed of the incident;

 4. A description of the types of Protected Date involved:

 5. An estimate of the number of records affected;

 6. The schools within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ affected.

7. What MaxScholar has done or plans to do to investigate the incident, stop the breach and mitigate any further unauthorized access or release of Protected Data; and

8. The contact information for Vendor representatives who can assist affected individuals that may have additional questions.

d. MaxScholar shall indemnify and hold \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ harmless from any claims arising from its breach within the Data Sharing and Confidentiality Agreement confidentiality and data security and privacy standards provision.

 e. MaxScholar acknowledges that upon initial notification from MaxScholar, \_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as the educational agency with which MaxScholar contracts, has an obligation to in turn notify any state Chief Privacy Officer. MaxScholar agrees not to provide this notification directly unless requested by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or otherwise required by law. In the event the Privacy Officer contacts MaxScholar directly or requests more information from MaxScholar regarding the incident after having been initially informed of the incident by ­­­­­­­­­­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, MaxScholar will promptly inform \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the same.

 **5. MaxScholar Information**

MaxScholar understands that it is responsible for providing \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with information to include:

 a. Exclusive purposes for which the student data will be used.

b. How MaxScholar will ensure that subcontractors, persons or entities that MaxScholar will share the student data with, if any, will abide by data protection security requirements.

 c. That student data will be returned or destroyed upon expiration of the Agreement.

d. If and how a parent, student, or eligible teacher may challenge the accuracy of the student/teacher data that is collected; and

e. Where the student data will be stored (described in such a manner as to protect data security), and the security protections taken to ensure such data will be protected including whether such data will be encrypted.

 **6. Termination or Expiration of Contract and/or Agreement**

a. Upon termination of the Agreement, MaxScholar shall return or destroy all confidential information obtained in connection with the services provided therein and/or student data. Destruction of the confidential information and/or student data shall be accomplished utilizing an approved method of confidential destruction, including shredding, burning or certified/witnessed destruction of physical material and verified erasure of magnetic media using approved methods of electronic file destruction. The parties further agree that the terms and conditions set forth herein shall survive the expiration and/or termination of the Agreement.

b. If requested by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, MaxScholar will assist \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in exporting all Protected Data previously received back to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for its own use, prior to deletion, in such formats as maybe requested by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

c. In the event the Contract is assigned to a successor, MaxScholar (to the extent authorized by the Contract), MaxScholar will cooperate with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as necessary to transition Protected Data to the successor of MaxScholar prior to deletion.

d. Neither MaxScholar nor any of its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data will retain any Protected Data, copies, summaries, or extracts of the Protected Data, or any de-identified Protected Data, on any storage medium whatsoever. Upon request, MaxScholar and/or its subcontractors other authorized persons or entities to whom it has disclosed Protected Data, as applicable will provide \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with a certification from an appropriate officer that these requirements have been satisfied in full.