

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“**Agreement**”) is entered into as of this July 1, 2019 (“**Effective Date**”), by and among Data Path, Inc. (“**Datapath**”), a California Corporation, and Sylvan Union School District (“**Customer or District**”), collectively referred to hereinafter as the “**Parties**” or individually as the “**Party**”.

1. SERVICES.

1.1 Performance of Services. Datapath agrees to use commercially reasonable efforts to perform the services (“**Services**”) set forth in Exhibit A attached to this Agreement and incorporated in by reference (hereinafter referred to as the Statement of Work (“**SOW(s)**”). “**Services**” may include, without limitation, professional services and any of Datapath’s security monitoring services.

1.2 Personnel. Customer shall provide a suitable and safe work environment for Datapath employees and subcontractors (“**Personnel**”) while such Personnel are on Customer’s premises. While on Customer’s premises, Datapath’s Personnel shall comply with all reasonable security practices and procedures generally prescribed by Customer and provided reasonably in advance in writing. Datapath may replace or change its Personnel as required. For the term of this Agreement and for twelve (12) months thereafter, Customer agrees not to solicit or retain the services of any of Datapath’s Personnel and who performed Services in connection herewith. The foregoing shall not apply with respect to general advertisement, or generally available public solicitations, that are not specifically targeted at the applicable Personnel. In the event of a breach of the foregoing Customer will, within thirty (30) days, pay Datapath an amount equal to twenty-five percent (25%) of such Personnel’s first year salary at Customer.

1.3 Customer’s Obligations. Customer acknowledges that Customer’s timely provision of (and Datapath’s access to) Customer facilities, equipment, assistance, cooperation, and complete and accurate information and data from Customer’s officers, agents and employees (“**Cooperation**”) is essential to the performance of the Services and the provision of Support, and that Datapath shall not be liable for any deficiency in performing the Services or providing the Support if such deficiency results from Customer’s failure to provide full Cooperation as required hereunder. Cooperation includes, but is not limited to, designating a project manager to interface with Datapath during the course of the Services, allocating and engaging additional resources as may be required to assist Datapath in

performing the Services or providing the Support. Customer will provide a safe work environment for Datapath’s Personnel.

2. PAYMENTS.

2.1 Fees and Expenses.

In consideration of the Services, Customer shall pay to Datapath the fees as set forth in the SOW in accordance with the terms and conditions set forth therein. Customer will be responsible for Datapath expenses, and third-party costs, to the extent set forth in a SOW.

2.2 Payment Terms.

Unless otherwise specified in a SOW, Datapath shall submit to Customer, monthly, an invoice for all Services performed and expenses incurred during the prior month. All amounts payable by Customer hereunder shall be due and payable within thirty (30) days of the date of such invoice. Customer agrees to pay interest at the rate of one percent (1.0%) per month (or the maximum rate permitted by applicable law, whichever is less) for all amounts not paid within thirty (30) days from the date of the invoice therefor. If Customer disputes an invoice in good faith, it may withhold the disputed portion but shall pay the undisputed portion. No interest shall be incurred on any unpaid or adjusted invoice unless it is determined that Datapath is due all or a portion of the disputed amount. Interest shall be charged at a rate of one percent (1.0%) per month (or the maximum rate permitted by applicable law, whichever is less), on all amounts that were disputed and not paid, but were due to Datapath.

3. TERM; TERMINATION.

3.1 Term

This Agreement shall commence on the Effective Date and continue in effect until June 30, 2022 (“**Term**”), subject to earlier termination as provided herein. Following the Term the Parties shall have the option to extend the Agreement for an additional two-year period (“**Renewal Term**”) beginning on July 1, 2022. The Parties shall meet ninety (90) days prior to the expiration of the initial Term to discuss the option to extend and negotiate price terms for the Renewal Term.

3.2 Termination

In the event that either Party shall fail to perform its obligations pursuant to this Agreement and such failure shall continue for a period of thirty (30) days,

ten (10) days in the case of non-payment, following written notice from the other Party, (sufficiently detailing the breach and stating the intent to terminate), this Agreement may be terminated immediately by the non-breaching Party giving a notice of termination to the other Party.

3.3 EFFECT OF TERMINATION

Termination of this agreement will terminate the SOW. The provisions of Sections 1.2, 2, 3, 4, 5 and 8 shall survive termination.

4. DELIVERABLES; CUSTOMER DATA.

Any deliverables provided by Datapath are provided solely for Customer's internal use, during the term of this Agreement, for the purposes for which they are provided. Deliverables will not be disclosed to third parties. No intellectual property rights are assigned or transferred by Datapath in connection herewith. Any data provided by Customer to Datapath is non-exclusively licensed to Datapath solely as necessary to help perform the Services for Customer. Except as otherwise expressly provided herein, nothing in this Agreement shall be deemed to grant, directly or by implication, estoppel or otherwise, any right or license with respect to any technology or other intellectual property rights, and each Party retains all right, title and interest in and to their respective technologies and other intellectual property rights.

5. WARRANTY DISCLAIMER

5.1 DATAPATH MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH REGARD TO THE SERVICES PROVIDED HEREUNDER, WITH THE EXCEPTION OF ANY WARRANTY EXPRESSLY SET FORTH HERE IN THIS AGREEMENT OR RELATED EXHIBITS. AS SUCH, DATAPATH WARRANTS THAT THE SERVICES WILL BE PERFORMED IN A PROFESSIONAL AND WORKMANLIKE MANNER IN ACCORDANCE WITH INDUSTRY STANDARDS AND WILL CONFORM TO THE WRITTEN SPECIFICATIONS CONTAINED IN AN ORDER. THIS WARRANTY, WITH RESPECT TO SERVICES, WILL EXIST FOR A PERIOD OF SIXTY (60) DAYS FROM THE DATE THE SERVICES ARE COMPLETED AND ACCEPTED BY CUSTOMER.

EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH HEREIN, THE SERVICES AND ANY RELATED EQUIPMENT, SOFTWARE AND OTHER MATERIALS, PROVIDED BY DATAPATH IN CONNECTION WITH THE SERVICES, ARE PROVIDED WITHOUT ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS OR ANY RESULTS TO BE ACHIEVED FROM THEIR USE.

5.2 DATAPATH MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF SOFTWARE OR EQUIPMENT OR ANY RESULTS TO BE ACHIEVED THEREFROM, OR THAT ANY SERVICE WILL BE FREE FROM LOSS OR LIABILITY ARISING OUT OF ANY THIRD-PARTY TECHNOLOGY, OR ANY THIRD PARTY ACTION SUCH AS HACKING, OR ANY ACT OR OMISSION OF THE CUSTOMER, INCLUDING FAILURE TO ENCRYPT, AND, AS A RESULT DATAPATH CANNOT BE LIABLE, ACCESSORILY LIABLE, AND SHALL HAVE NO RESPONSIBILITY PROVIDED THAT THE LOSS OR LIABILITY WAS NOT A RESULT OF ANY ACT, DAMAGE OR LOSS TO THE EXTENT ARISING OUT OF ACTS OF GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF DATAPATH.

5.3 DATAPATH MAKES NO WARRANTIES THAT DATAPATH'S SECURITY RELATED SERVICES WILL IDENTIFY, PROTECT FROM OR OTHERWISE ADDRESS ANY AND ALL CYBER THREATS SUCH AS BUT NOT LIMITED TO: MALWARE, RANSOMWARE, DATA BREACHES, SQL INJECTION ATTACKS, DENIAL OF SERVICE ATTACKS.

6. LIMITATION OF LIABILITY.

TO THE EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY OR ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OR LIMITATION OF LIABILITY, CONSULTANT SHALL NOT BE LIABLE FOR ANY

(I) INDIRECT, EXEMPLARY, SPECIAL, CONSEQUENTIAL OR INCIDENTAL

DAMAGES OF ANY KIND INCLUDING, WITHOUT LIMITATION, FOR LOSS OF INTERRUPTION OF THE BUSINESS, LOST DATA OR LOST PROFITS.

- (II) AMOUNTS IN THE AGGREGATE IN EXCESS OF THE FEES PAID BY CUSTOMER TO CONSULTANT DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION ACCRUES OR
- (III) THE COST OF PROCUREMENT OF SUBSTITUTE SERVICES — IN EACH CASE, AS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, HOWEVER CAUSED, EVEN IF CONSULTANT HAS BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. DATAPATH WILL HAVE NO LIABILITIES WITH RESPECT TO DAMAGES OR INJURIES CAUSED BY ANY FAILURE OF CONSULTANT'S SECURITY RELATED SERVICES TO IDENTIFY, PROTECT FROM OR OTHERWISE ADDRESS CYBER THREATS (SUCH AS MALWARE).
- (IV) The limitations set forth in this section shall not apply to any of the following: (1) Datapath's indemnification and defense obligations; (2) any claim, act, damage, or loss to the extent arising out of acts of gross negligence or willful misconduct by Datapath, Datapath's affiliates, officers, employees, consultants, or subcontractors; or (3) any amounts due under a policy of insurance required by this Agreement.

6.1 Acknowledgment.

Customer acknowledges that the limitations of liability contained in this Section 6 are a fundamental part of the basis of Datapath's bargain hereunder, and Datapath would not enter into this Agreement absent such limitations.

7. CONFIDENTIALITY.

7.1 Confidential information.

By this Agreement, the parties may have access to information that is considered confidential

to either Party ("**Confidential Information**"). For purposes of this Agreement, "Confidential Information" of a Party means information, ideas, materials or other subject matter of such Party, whether disclosed orally, in writing or otherwise, that is provided to the other Party. Confidential Information includes, without limitation, the terms and conditions of this Agreement; all business plans, technical information or data, product ideas, methodologies, calculation algorithms and analytical routines; and all personnel, customer, contracts and financial information or materials disclosed or otherwise provided by such Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"). All pricing information, and information regarding performance of the Services (even if first generated by Customer) is Datapath's confidential information. Confidential Information does not include that which (a) is already in the Receiving Party's possession at the time of disclosure to the Receiving Party, (b) is or becomes part of public knowledge other than as a result of any action or inaction of the Receiving Party, (c) is obtained by the Receiving Party from an unrelated third party without a duty of confidentiality, or (d) is independently developed by the Receiving Party. Without limiting the generality of, and notwithstanding the exclusions described in the foregoing, (I) Confidential Information of Datapath includes all Deliverables, including any portion thereof (in both object code and source code form), modifications and derivatives thereof, and information or materials derived therefrom, whether or not marked as such; (II) Confidential Information of the District includes student and employee information, which shall be handled according to the security practices and requirements outlined in Exhibit B attached to this Agreement and incorporated in by reference (hereinafter referred to as the Pupil Records Rider); and (III) Confidential Information of both parties includes the terms and pricing under this Agreement.

7.2 Restrictions on Use.

The Receiving Party shall not use Confidential Information of the Disclosing Party for any purpose other than in furtherance of this Agreement and the activities described herein. The Receiving Party shall not disclose Confidential Information of the Disclosing Party to any third parties except as otherwise permitted hereunder. The Receiving Party may disclose Confidential Information of the Disclosing Party only to those employees or agents who have a need to know such Confidential Information and who are bound to retain

the confidentiality thereof under provisions (including, without limitation, provisions relating to nonuse and nondisclosure) no less restrictive than those required by the Receiving Party for its own Confidential Information. The Receiving Party shall maintain Confidential Information of the Disclosing Party with at least the same degree of care it uses to protect its own proprietary information of a similar nature or sensitivity, but no less than reasonable care under the circumstances. Each Party shall advise the other Party in writing of any misappropriation or misuse of Confidential Information of the other Party of which the notifying Party becomes aware.

7.3 Exclusions.

Notwithstanding the foregoing, this Agreement shall not prevent the Receiving Party from disclosing Confidential Information of the Disclosing Party to the extent required by a judicial order or other legal obligation, including, but not limited to, the California Public Records Act (Gov. Code § 6250 et seq.) and the Brown Act (Gov. Code § 54950 et seq.), provided that, in such event, the Receiving Party shall promptly notify the Disclosing Party to allow intervention to contest or minimize the scope of the disclosure (including application for a protective order). Further, each Party may disclose the terms and conditions of this Agreement: (a) as required by the applicable securities laws, including, without limitation, requirements to file a copy of this Agreement (redacted to the extent reasonably permitted by applicable law) or to disclose information regarding the provisions hereof or performance hereunder to applicable regulatory authorities; (b) in confidence, to legal counsel; (c) in confidence, to accountants, banks, and financing sources and their advisors; and (d) in connection with the enforcement of this Agreement or any rights hereunder.

7.4 Equitable Relief.

Each Party (as Receiving Party) acknowledges that the Disclosing Party considers its Confidential Information to contain trade secrets of the Disclosing Party and that any unauthorized use or disclosure of such information would cause the Disclosing Party irreparable harm for which its remedies at law would be inadequate. Accordingly, each Party (as Receiving Party) acknowledges and agrees that the Disclosing Party will be entitled, in addition to any other remedies available to it at law or in equity, to the issuance of injunctive relief, without bond, enjoining any breach or threatened breach of the Receiving Party's obligations hereunder

with respect to the Confidential Information of the Disclosing Party, and such further relief as any court of competent jurisdiction may deem just and proper.

7.5 Return of Materials.

Upon termination of this Agreement, each Party (as Receiving Party) will immediately return to the Disclosing Party all Confidential Information of the Disclosing Party embodied in tangible (including electronic) form or, at the Disclosing Party's discretion, destroy all such Confidential Information and certify in writing to the Disclosing Party that all such Confidential Information has been destroyed.

8. Indemnification

Datapath shall defend, indemnify, protect, and hold harmless Customer, their board members, officers, employees and agents from and against claims, damages, losses, and expenses (including, but not limited to attorneys' fees and costs) arising out of or resulting from any act or omission, or gross negligence, or willful misconduct of Datapath during performance of this Agreement. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a Party, person, or entity described in this paragraph. Datapath agrees that said indemnity, protection and defense obligations shall survive the termination of this Agreement.

9. Insurance

Without in any way limiting Datapath's liability or indemnification obligations set forth in Section 8, above, Datapath shall secure and maintain, at its own expense throughout the Term, comprehensive general liability insurance that provides coverage for bodily injury, property damage, and personal injury (including death) arising out of the actual or alleged acts, omissions, or negligence of Datapath in performing the Services under this Agreement. Such insurance coverage shall be no less than \$1,000,000 per occurrence for bodily injury, property damage and personal injury, and such insurance shall name District as an "additional insured." Datapath shall provide written evidence of such insurance to District prior to or concurrent with the execution of this Agreement.

10. Fingerprinting/Criminal Background Investigation Certification.

Datapath and its Personnel shall at all times comply with the fingerprinting and criminal background

investigation requirements of the California Education Code ("Education Code") section 45125.1. Accordingly, by checking the applicable boxes below, Datapath hereby represents and warrants to Customer the following:

A. ☐ Datapath and its Personnel shall only have limited or no contact (as determined by District) with District students at all times during the Term of this Agreement.

B. ☐ The following Datapath Personnel have more than limited contact (as determined by District) with District students during the Term of this Agreement:

_____. [Attach and sign additional pages, as needed.]

C. ☐ (Required only if Box 10.B is checked.) All of Datapath Personnel noted above, at no cost to District, have completed background checks and have been fingerprinted under procedures established by the California Department of Justice and the Federal Bureau of Investigation, and the results of those background checks and fingerprints reveal that none of these Datapath Personnel have been arrested or convicted of a serious or violent felony, as defined by the California Penal Code.

Datapath further agrees and acknowledges that if at any time during the Term of this Agreement Datapath learns or becomes aware of additional information, including additional personnel, which differs in any way from the representations set forth above, Datapath shall immediately notify District and prohibit any new personnel from having any contact with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any such contact is permissible.

11. Non-Appropriations.

Customer covenants to take such action as may be necessary to include all payments due hereunder in its annual budget and to make the necessary annual appropriations for all such payments; provided that this Agreement may be terminated on June 30th of the current fiscal year by Customer upon notice by March 20 if no funds, or insufficient funds are appropriated in any fiscal year.

12. GENERAL.

12.1 Integration and Severability.

This Agreement is the final, complete and exclusive agreement between the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous proposals, understandings, representations, warranties, promises and other communications, whether oral or written, relating to such subject matter. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable for any reason, the remaining provisions hereof shall be unaffected and remain in full force and effect.

12.2 Modification and Waiver.

No amendment or modification to this Agreement shall be valid or binding upon the parties unless in writing and signed by an officer of each Party. No failure or delay on the part of either Party in the exercise of any right or privilege hereunder shall operate as a waiver thereof or of the exercise of any other right or privilege hereunder, nor shall any single or partial exercise of any such right or privilege preclude other or further exercise thereof or of any other right or privilege.

12.3 Non-Assignable.

Neither Party may assign this agreement unless both parties agree in writing. Subject to the preceding sentence, this Agreement shall bind each Party and its permitted successors and assigns.

12.4 Remedies.

All rights and remedies hereunder shall be cumulative, may be exercised singularly or concurrently and, unless otherwise stated herein, shall not be deemed exclusive. If any legal action is brought to enforce any obligations hereunder, the prevailing Party shall be entitled to receive its attorneys' fees, court costs and other collection expenses, in addition to any other relief it may receive.

12.5 Notices.

Any notice or communication permitted or required hereunder shall be in writing and shall be delivered in person or by courier, sent by electronic facsimile (fax), delivered by overnight delivery service, or mailed by certified or registered mail,

postage prepaid, return receipt requested, and addressed as set forth after the signatures of this Agreement or to such other address as shall be given in accordance with this Section 8.5. If notice is given in person, by courier or by fax, it shall be effective upon receipt; if notice is given by overnight delivery service, it shall be effective two (2) business days after deposit with the delivery service; and if notice is given by mail, it shall be effective five (5) business days after deposit in the mail.

12.6 Force Majeure.

, Both parties shall be excused from performance under this Agreement for any period to the extent that a Party is prevented from performing any obligation, in whole or in part, as a result of causes beyond its reasonable control and without its negligent or willful misconduct, including without limitation, acts of God, natural disasters, war or other hostilities, labor disputes, civil disturbances, governmental acts, orders or regulations, third party nonperformance or failures or fluctuations in electrical power, heat, light, air conditioning or telecommunications equipment.

12.7 Construction.

The captions and section and paragraph headings used in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement.

12.8 Counterparts.

This Agreement may be executed in several counterparts, all of which shall constitute one agreement.

12.9 Choice of Law.

The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of California, without giving effect to the principles of conflict of laws. All disputes arising in connection herewith are subject to the sole and exclusive jurisdiction of and venue in the courts located in Modesto, California and the parties hereby consent and submit to such jurisdiction and venue.

12.10 Relationship of Parties.

This Agreement shall not be construed as creating an agency, partnership, joint venture or any other form of association, for tax purposes or otherwise, between the parties, and the parties shall at all times be and remain independent contractors. Except as expressly agreed by the parties in writing, neither Party shall have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other Party or to bind the other Party in any respect whatsoever.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties hereto have executed this Professional Services Agreement as of the effective date: July 1, 2019

CUSTOMER
SYLVAN UNION SCHOOL DISTRICT

DATA PATH
DATA PATH, INC.

BY: _____

BY: _____

NAME: Debra Hendricks

NAME: JAMES BATES

TITLE: Superintendent

TITLE: CO-FOUNDER

ADDRESS: 605 Sylvan Ave.

ADDRESS: 318 McHenry Ave.

Modesto, CA 95350

Modesto, CA 95354

EXHIBIT A
STATEMENT OF WORK 2019-2020

STATEMENT OF WORK #1_____

This Statement of Work #1 is entered into by Data Path, LLC (“**Consultant**”), and Sylvan Union School District (“**Customer**”) pursuant to that certain Professional Services Agreement between the parties, dated as of July 1, 2019 (“Agreement”). This Statement of Work shall have no effect separate and apart from the Agreement, and all capitalized terms used herein without definition will have the same meanings as specified therefor in the Agreement. Consultant and Customer agree as follows:

Deliverables:

Tools

- Advanced Trouble Ticket System integrated with MyTechDesk
 - o Single Point of Contact (POC) provided by Customer
 - o After the first year of service, all support request to be triaged by Customer Technical Staff prior to engaging Consultant
- Client Portal, Analytics & Reports
- Discovery with Reporting
- Centralized Documentation Platform
- Remote Control Agents
- Network Monitoring
- Server and virtualization monitoring

IT Procurement

- Consultant Procurement Department
- End User Device Recommendations
- Warranty Management
- Preferred Vendor Partnerships
- Assistance with Third Party Contract Services (Erate, NASPO, MHEC, etc)

Technology Management - Daily

- Emergency After Hours Support for Critical Business Systems
- Extended Non-Critical Service Hours (7:00am — 6:00pm)
- Management of Recurring Renewals
- Monitoring, Alerting & Maintenance
- Vendor Review and Facilitation

Strategic Planning—To be Scheduled Bi-Annually Based on Availability

- Infrastructure Review by Sr. Engineer & Entire Technical Team
- Infrastructure Review with EDU Account Manager
- End User Device Forecasting (Refresh Scheduling)
- E-Rate Planning and Guidance (Working with Customer E-Rate internal team and/or Customer E-Rate Consultant)
- Recommendations for Customer Technical Team Support around technical training and education.

Support (Infrastructure)

- Network
- Backups
- Servers
- Virtualization
- Wireless (Student Device load balancing and network access)

Help Desk (End User Support-Staff Only)

- Mobile Devices (Laptops, Smart Phones, and Tablets)
- Peripherals
- Printers
- Staff and Certificated Users Workstations
- Pre-testing assessment and validation (SBAC, MAPS, etc.)

Security

- Management of Firewall, Firewall Security Services and AlienVault Security appliance
- Health checks of Firewall to comply with security policy best practices
- Real time event monitoring of critical assets during normal Business hours
- Firewall Integration with Minemeld threat intelligence feeds
- Web Based Security Awareness Training Campaigns
- Ongoing Phishing Assessments
- Endpoint Protection Monitoring on up to 850 Endpoints
- Ongoing Dark Web scans to identify exposed credentials
- Review of Dark Web scans by Consultant Security Team
- Respond to security alerts during normal business hours (M-F 8AM-5PM)
- Up to 10 remediation hours monthly (Requires EDR Licensing)
- Severe security issues outside of normal business hours will be handled per Our on-call protocol

Disclaimer:

- Consultant security services are intended to mitigate potential security incidents such as network intrusions, viruses, and malware. Although these services will reduce the risk of a security incident, they do not guarantee that an incident will not occur. Consultant is not responsible for any damages or data loss due to a security incident that did not result from any act, omission, negligence, or willful misconduct of the Consultant.

Exclusions:

- Consultant is not responsible for disposal of any e-waste.

****Major changes or additions to infrastructure may be subject to additional charges or contract evaluation**

Fees:

	Cost FY19-20	Cost FY20-21	Cost FY21-22	Cost FY22-23	Cost FY23-24	Grand Total FY19-20 to FY23-24
Solution for Virtualization Serve Hosts and Software	\$246,696	\$0	\$0	\$30,729	\$24,837	\$302,262
On-Boarding Tool: Ruckus Cloudpath	\$43,050	\$0	\$0	\$18,900	\$18,900	\$80,850 (3yr+2, 1yr agreements)
Trouble Ticket System	\$0	\$0	\$0	\$0	\$0	Included with Managed (IT) Services
Information Technology (IT) Managed Services	\$180,000	\$183,600	\$187,200	\$190,800	\$194,400	\$936,000 (2% annual increase)
Total Cost	\$469,746	\$183,600	\$187,200	\$240,429	\$238,137	\$1,319,112

Account Manager/Primary Contact

The account manager, currently assigned to Customer, is:

Orion Potts

EDU Account Manager

opotts@mydatapath.com

(209) 661-4714 — Direct Work #

(209) 568-6227 — Direct Cell # (Textable)

Term

This Statement of Work shall commence on July 1, 2019. This agreement will be effective through June 30, 2020 from such start date.

CUSTOMER

SYLVAN UNION SCHOOL DISTRICT

BY: _____

NAME: _____

CONSULTANT

DATA PATH, INC.

BY: _____

NAME: _____

EXHIBIT B
PUPIL RECORDS RIDER

**SYLVAN UNION SCHOOL DISTRICT
PUPIL RECORDS RIDER FOR
DIGITAL RECORDS STORAGE AND/OR
DIGITAL EDUCATIONAL SOFTWARE CONTRACTS**

Sylvan Union School District (“District”) and Data Path, Inc. (“Contractor”) have entered into that certain Information Technology Managed Services (“Contract”) as of July 1, 2019 (“Effective Date”). The Contract includes the digital storage, management and retrieval of pupil records and/or digital educational software through which Contractor accesses, stores and uses pupil records. This Pupil Records Rider (“Rider”), executed by the District and Contractor as of the Effective Date, is intended to supplement and amend the terms of the Contract, as set forth below. This Rider concerns pupil records, as that term is defined by Education Code section 49073.1 (“Pupil Records”) and/or covered information, which means personally identifiable information or materials as defined by Business and Professions Code section 22584 (“Covered Information”).

1. Pupil Records Property of District. All Pupil Records are and will continue to be the property of and under the control of the District. The parties agree that as between them, all rights, including all intellectual property rights in and to Pupil Records shall remain the exclusive property of the District, and Contractor has a limited, nonexclusive license to such Pupil Records. The Contract and Rider do not give Contractor any rights, implied or otherwise, to Pupil Records, District content, or intellectual property, except as expressly stated in the Contract and this Rider.
2. Pupil-Generated Content. Notwithstanding the provisions of section 1, pupils shall retain ownership and control of pupil-generated content, if any (as that term is defined by Education Code section 49073.1(d)(4)). Contractor shall make all pupil-generated content, if any, available to the pupil who created it and provide a process by which a pupil can transfer his or her pupil-generated content to a personal account. Within thirty (30) days of the execution of this Rider, Contractor shall provide the District with a written description of the process it will provide to pupils in compliance with this section 2.
3. Use of Information in Pupil Records. Contractor may not and will not use any Pupil Record or information in a Pupil Record for any purpose other than those required or specifically permitted by the Contract and this Rider.
4. Personally Identifiable Information. Contractor shall provide a process by which a pupil’s parent, legal guardian, or the eligible pupil can review personally identifiable information in the pupil’s records and correct erroneous information. Within thirty (30) days of the execution of this Rider, Contractor shall provide the District with a written description of the process it will provide to pupils and their parents/legal guardians in compliance with this section 4.
5. Security and Confidentiality of Pupil Records. Contractor will access, store and use Pupil Records in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will be no less protective than those used to secure Contractor’s own data of a similar type. Without limiting the foregoing, Contractor warrants that all Pupil Records will be encrypted in transmission via web interface using SSL (Secure Socket Layer) (including via web interface) and stored at no less than 128-bit level encryption.

In addition, Contractor will use industry-standards and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services under the Contract and/or this Rider.

Contractor will designate employees or agents it holds and will hold primarily responsible for meeting the Contractor's duties to securely maintain and protect Pupil Records. Contractor will ensure that the designated persons have or will receive all training and information necessary to meet the Contractor's duties to securely protect and maintain Pupil Records. The designation of employees or agents required under this section does not relieve the Contractor of any of its duties under the law or the Contract and/or this Rider, nor relieve the Contractor of any liability for any breach thereof.

6. Unauthorized Disclosure. Immediately upon becoming aware of an unauthorized disclosure of Pupil Records, or of circumstances that could have resulted in unauthorized access to or disclosure or use of Pupil Records, Contractor will notify the District, fully investigate the incident, and cooperate fully with the District's investigation of and response to the incident. Except as otherwise required by law, Contractor will not provide notice of the incident directly to parents, legal guardians, or pupils whose personally identifiable information was involved, to regulatory agencies, or to other entities, without prior written permission from the District. District may, by written request, direct Contractor to provide notice of the incident directly to parents, legal guardians or pupils whose personally identifiable information was involved, or to regulatory agencies or other entities.
7. Retention of Pupil Records. The Contractor hereby certifies that Pupil Records shall not be retained or available to the Contractor, including any subcontractors, partners, or associated entities of the Contractor, upon completion of the terms of the Contractor and this Rider. Notwithstanding the foregoing, Contractor may maintain pupil-generated content (as that term is defined by Education Code section 49073.1(d)(4)), if any, upon completion of the term of the Contract and this Rider if, and only if, the parent, legal guardian, or eligible pupil chooses to establish or maintain an account with the Contractor for the purpose of storing the pupil-generated content and the Contractor receives the written permission of a pupil's parent or legal guardian to establish or maintain the pupil's account.

In furtherance of the foregoing, upon termination or expiration of the Contract and this Rider, Contractor will ensure that all Pupil Records are securely returned or destroyed as directed by the District. Transfer to the District or a third party designated by the District shall occur within a reasonable period of time, and without significant interruption in service. Contractor shall ensure that such transfer/migration uses facilities and methods that are compatible with the relevant systems of the District or its transferee, and to the extent technologically feasible, that the District will have reasonable access to Pupil Records during the transition. In the event that the District requests destruction of any Pupil Records, Contractor agrees to securely destroy all Pupil Records in its possession and in the possession of any subcontractors or agents to which the Contractor might have transferred Pupil Records. The Contractor agrees to provide documentation of data destruction to the District.

8. Family Educational Rights and Privacy Act. Contractor agrees to assist District in maintaining the privacy of Pupil Records as may be required by State and Federal law, including but not limited to the Protection of Pupil Rights Amendment (PPRA), the Children's Online Privacy Protection Act (COPPA), the Family Educational Rights and Privacy Act (FERPA), and the Student Online Personal Information Protection Act (SOPIPA).

Contractor will provide access to Pupil Records, including deidentified information, only to its employees and subcontractors who need to access the data to fulfill Contractor obligations under

the Contract and/or this Rider. Contractor will ensure that employees and subcontractors who perform work under the Contract and/or this Rider have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of this Rider. Contractor will use the education records only for the purpose of fulfilling its duties under the Contract and/or this Rider for District's and its pupils' benefit, and will not share such data with or disclose it to any third party except as provided for in this Rider, required by law, or authorized in writing by the District.

If Contractor will have access to "education records" for the District's pupils as defined under FERPA, Contractor acknowledges that, for the purposes of the Contract and/or this Rider, it will be designated as a "school official" with "legitimate educational interests" in the District education records, as those terms have been defined under FERPA and its implementing regulations, and the Contractor agrees to abide by the FERPA limitations and requirements imposed on school officials. Contractor will use the education records only for the purpose of fulfilling its duties under the Contract and/or this Rider for District's and its pupils' benefit, and will not share such data with or disclose it to any third party except as provided for in this Rider, required by law, or authorized in writing by the District.

9. No Targeted Advertising. Contractor will not use Pupil Records for advertising or marketing purposes unless such use is specifically authorized by this Contract or otherwise authorized in writing by the District. Contractor will not use Pupil Records to engage in targeted advertising. Contractor is prohibited from mining Pupil Records for any purposes other than those agreed to by the parties.
10. Covered Information. To the extent Contractor is an operator of an Internet Web site, online service, online application, or mobile application, with actual knowledge that the site, service, or application is used primarily for K-12 school purposes and was designed and marketed for K-12 school purposes, Contractor agrees to comply with all of the requirements of Business and Professions Code section 22584. Contractor agrees not to engage in targeted advertising as described in section 22584. Contractor agrees not to use information, including persistent unique identifiers, created or gathered by the Contractor's site, service, or application, to amass a profile about a student except in furtherance of District's purposes. Contractor further agrees to that it will not sell, disclose, or otherwise use Covered Information without the prior written consent of the District. Contractor will implement and maintain reasonable security procedures to protect Covered Information and fulfill all other requirements of Business and Professions Code section 22584.
11. Compliance with Law. In the event of a conflict between this Rider and the Contract, the terms of this Rider shall govern. This Rider is intended to comply with Education Code section 49073.1 and Business and Professions Code section 22584. In addition to any other penalties, if the Contract and this Rider, taken together, fail to comply with Education Code section 49073.1 and Business and Professions Code section 22584, the Contract shall be rendered void if, upon notice and a reasonable opportunity to cure, the noncompliant party fails to come into compliance and cure any defect. Written notice of noncompliance may be provided by any party to the Contract. All parties subject to a Contract voided in accordance with this paragraph and Education Code section 49073.1 or Business and Professions Code

section 22584 shall return all Pupil Records and Covered Information in their possession to the District. The term of this Rider is coextensive with the term of the Contract.

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Rider, in duplicate, as of the day and year first above written.

DATA PATH, INC.

SYLVAN UNION SCHOOL DISTRICT

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____