

**HOLLISTER SCHOOL DISTRICT
INDEPENDENT CONTRACTOR AGREEMENT**

P.O. # _____

THIS AGREEMENT is made and entered into this 16 day of June, 2022, by and between Curriculum Associates, LLC and Hollister School District a ☐ corporation, ☐ partnership, ☒ limited liability corporation, ☐ sole proprietor, whose mailing address is 153 Rangeway Road, North Billerica, MA 01862 physical address is same as above Hereinafter referred to as "CONTRACTOR" and Hollister School District, hereinafter referred to as "DISTRICT."

WHEREAS, DISTRICT is authorized by Section 53060 of the California Government code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, DISTRICT is in need of such special services and advice; and

WHEREAS, CONTRACTOR has the required background, experience, expertise, and is specially trained to perform the special services required by DISTRICT, and such services are needed on a limited basis; and

WHEREAS, DISTRICT maintains certain confidential information including trade secrets, student records, and all other information not clearly known to the public and/or confidential pursuant to law. The DISTRICT's trade secrets and other proprietary and confidential information includes the whole or any processes, procedures, confidential business or financial information, and all other trade secret information not clearly known to the public, hereinafter referred to as "CONFIDENTIAL INFORMATION."

NOW, THEREFORE the Parties, for the consideration stated herein, mutually agree to enter into this AGREEMENT subject to the following terms and conditions:

1. Services. DISTRICT hereby engages CONTRACTOR as an Independent Contractor to provide the following services, hereinafter referred collectively to as the "SERVICES":

Ellevation Data/Implementation _____
Online Training - 3 Hr (Platform) _____
Online Webinar Training - 1 Hr (Platform) _____

CONTRACTOR represents that CONTRACTOR has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the DISTRICT. CONTRACTOR shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from DISTRICT. CONTRACTOR shall have sole discretion and control of CONTRACTOR's services and the manner in which they are performed.

2. Term. The term of this AGREEMENT shall commence on the 1 day of July, 2022 and terminate on the 6 day of June, 2023. CONTRACTOR understands and agrees the DISTRICT has no obligation to extend the terms of this AGREEMENT, or contract for the provision of any future services, and makes no warranties or representations otherwise. Neither CONTRACTOR nor DISTRICT is required to renew this AGREEMENT in subsequent contract years. However, the parties acknowledge that any subsequent AGREEMENT is to be renegotiated prior to June 30, 2023. (Title 5 California Code of Regulations sections 3062 (d)).

3. Submittal of Documents. CONTRACTOR shall not commence the SERVICES under this AGREEMENT until CONTRACTOR has submitted and the DISTRICT has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required, which shall be incorporated herein by reference, as indicated below: *(Please indicate documents that apply)*

X Signed Agreement
N/A Insurance Certificates and Endorsements
X W-9 Form Attached X On file
N/A Worker's Compensation Certification
N/A Fingerprinting/Criminal Background Investigation Certificate
N/A Tuberculosis Clearance
N/A Copy of current license or credential required for type of service
N/A STRS Retirement Date: _____
N/A PERS Retirement Date: _____

4. Compensation. DISTRICT agrees to pay CONTRACTOR for the performance of SERVICES satisfactorily rendered pursuant to this AGREEMENT, according to the following rates, terms and conditions. DISTRICT agrees to pay CONTRACTOR on the following basis:

Not to exceed \$ 28,460.00 total fee for Services.

The basis of the fee for Services shall be as follows:

- a. \$ N/A per hour for a maximum of N/A hours,
- b. \$ N/A per day for a maximum of N/A days, or
- c. \$ 28,460.00 per engagement as may be requested by DISTRICT.

Checks will be made payable to CONTRACTOR and mailed to above address upon receipt of an invoice. Payment shall be limited to amount written in this paragraph, unless specifically indicated in Paragraph 5. DISTRICT agrees to pay CONTRACTOR within thirty (30) days of receipt of detailed invoice and/or DISTRICT form for Independent Contractor Request for Payment.

4.1. Incidental Expenses: N/A

- a. Lodging: Not to exceed \$ N/A per night.
- b. Meals: Reimbursement limited to current rate for District employees.
- c. Travel: Contractor will not be reimbursed for travel costs within 60 miles of DISTRICT. Other travel costs to reimburse at the current allowable IRS rate.
- d. Supplies: As negotiated with school/department contracting for service. Not to exceed \$ N/A.

5. Termination of Agreement. This agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice. CONTRACTOR will be compensated only for satisfactory work performed up to the date of termination.

6. Relationship of the Parties. CONTRACTOR enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall CONTRACTOR be considered an employee of DISTRICT within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, worker's compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall CONTRACTOR look to DISTRICT as his/her employer, or as a partner, agent, or principal. CONTRACTOR shall not be entitled to any benefits accorded to DISTRICT's employees, including, without limitation, worker's compensation, disability insurance, vacation, or sick pay. CONTRACTOR shall be responsible for providing at CONTRACTOR'S expense, and in the CONTRACTORS name, disability, worker's compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

CONTRACTOR shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of CONTRACTOR's compensation hereunder, including estimated taxes, and shall provide DISTRICT with proof of said payments upon demand. CONTRACTOR hereby indemnifies DISTRICT for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by DISTRICT arising out of CONTRACTOR'S breach of this Section.

7. Fingerprinting and Criminal Records Check of Contractor's Employees. CONTRACTOR shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the CONTRACTOR and/or its employees. CONTRACTOR shall not permit any employee to have any contact with the DISTRICT pupils until such time as CONTRACTOR has verified in writing to the governing board of the DISTRICT that such employee has not been convicted of a felony, as defined in Education Code §45125.1.

8. Insurance. Without limiting CONTRACTOR's indemnification, it is agreed that CONTRACTOR shall secure and maintain in force during the term of this Agreement a Commercial General Liability policy(Contractual liability included) utilizing an occurrence policy form, with limits not less than one million (\$1,000,000) dollars per occurrence, two million (\$2,000,000) annual aggregate limit. Business automobile Liability insurance shall be maintained at the same rate currently for District employees.

9. Assignment. The CONTRACTOR shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent on the DISTRICT.

10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

DISTRICT

Hollister School District
2690 Cienega Road
Hollister, CA 95023
Attn: Superintendent

CONTRACTOR

Name: Curriculum Associates, LLC
Address: 153 Rangeway Road
North Billerica, MA 01862

Phone: 617-307-5755
Fax:
Email: legal@cainc.com
Attn: Legal Department

Any notice personally given or sent by telegram or facsimile transmissions shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

11. Equipment and Materials. CONTRACTOR at its sole cost and expense shall provide and furnish all tools, labor, material, equipment, transportation services and any other items collectively, ("Equipment") which are required or necessary to perform the Services in a manner which is consistent with generally accepted standards of the profession for similar services. Notwithstanding the foregoing, DISTRICT shall not be responsible for any damages to persons or property as a result of the use, misuse, or failure of any Equipment used by CONTRACTOR of the CONTRACTOR Parties by DISTRICT. Furthermore, any Equipment or workmanship that does not conform to the regulations of this Agreement may be rejected by DISTRICT and in such case must be promptly remedied or replaced by CONTRACTOR at no additional cost to DISTRICT and subject to DISTRICT's reasonable satisfaction.

12. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.

13. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree that any action or proceeding brought to enforce the terms and conditions of the Agreement shall be maintained in San Benito County, California.

14. Attorneys' Fees. If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorney's' fees shall be counted in calculating the amount of judgment for purposes of determining whether a party is entitled to its costs or attorney's' fees.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their duly authorized representatives on the dates indicated below.

HOLLISTER SCHOOL DISTRICT

CONTRACTOR

BY: Jennifer Miller 6/17/22
Administrator Date

Title: E.L. Coordinator

Title: CEO, Ellevation

Authorized by: [Signature]
Director of Fiscal Services

6/17/22
Date

Approved: [Signature]
District Superintendent

6/21/22
Date

Date of Board Approval _____ Board Item # _____

Funding Source:

010	4203	0	5830	00	1110	1000	000000	001	0017	_____	%
Fund	Resource	Yr	Object	Sub	Goal	Func.	Cost Center	Site	Mgr.		

_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	%
Fund	Resource	Yr	Object	Sub	Goal	Func.	Cost Center	Site	Mgr.		

_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	%
Fund	Resource	Yr	Object	Sub	Goal	Func.	Cost Center	Site	Mgr.		

_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	%
Fund	Resource	Yr	Object	Sub	Goal	Func.	Cost Center	Site	Mgr.		

Original: Business Office- Accounts Payable
Copy: Requesting Department
Copy: Contractor

Curriculum Associates, LLC Order Form - Q-33303

This Order Form is being entered into between Curriculum Associates, LLC having an address at 153 Rangeway Road, North Billerica, MA 01862 ("Company") and the Customer Name identified as "Customer" below, pursuant to the parties' Master Services Agreement dated 7/1/2022 ("MSA"). In the event of any conflict between this Order Form and the MSA, the terms of this Order Form shall control. This Order Form is effective as of the Subscription Start Date set forth below.

Company: Curriculum Associates, LLC	Customer: Hollister School District, CA
Representative: Gabriela Volle	Contact Name: Jennifer Miller
Email: gabriela.volle@ellevationeducation.com	Email: jmiller@hesd.org
Phone: 617-307-5755	Phone: 831-630-6300 Ext. 334
Address: 153 Rangeway Road, North Billerica, MA 01862	Address: 2690 Cienega Rd, Hollister, CA 95023
Start Date: 7/1/2022	End Date: 6/30/2023

Subscription Fees

Product	Quantity	Unit Price	Total Fees
Ellevation (CA)	1,700	\$12.00	\$20,400.00
Subscription Total:			\$20,400.00

Services Fees

Product	Quantity	Unit Price	Training Product	Total Fees
Ellevation Data/Implementation	1	\$3,060.00		\$3,060.00
Online Training - 3 Hr (Platform)	2	\$2,000.00	Ellevation	\$4,000.00
Online Webinar Training - 1 Hr (Platform)	1	\$1,000.00	Ellevation	\$1,000.00
Services Total:				\$8,060.00

Total Investment - Q-33303

Grand Total: \$28,460.00

Invoicing Schedule: Up Front, In Full

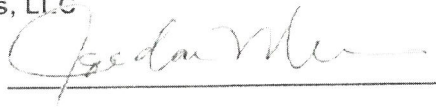
Payment Term: Net 30

Contract Term: 12

To the extent your purchase is subject to sales tax, tax will be applied at final invoicing. If tax exempt, please submit valid exemption certificate with PO and quote in order to avoid processing delays. Exemption certificates can also be submitted to exempt@cainc.com.

Curriculum Associates, LLC

By (Signature):



Name (Print):

Jordan Meranus

Title:

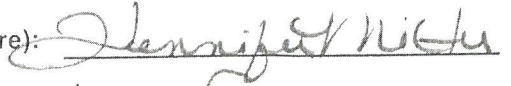
CEO, Ellevation

Date:

6/17/22

Hollister School District, CA

By (Signature):



Name (Print):

Jennifer Miller

Title:

EL Coordinator

Date:

6/16/2022

This Master Services Agreement (this "Agreement") is dated as of 7/1/2022 ("Effective Date") by and between Curriculum Associates, LLC ("Company"), and Hollister School District, CA ("Customer"). Company and Customer are each referred to individually as a "Party" and collectively the "Parties" hereto.

1 Definitions.

- 1.1 **"System"** means Company's proprietary, Internet-delivered SaaS platform of servers, software and related technology that is owned and operated by Company and furnished to Customer under this Agreement. The System provides Customer the ability to: (a) use Company's proprietary data management framework for English Language Learners ("ELLs"); (b) access reporting tools related to the productivity and performance of Customer's ELLs; (c) utilize instructional content for Customer's ELLs; and (d) provide Customer's ELLs with tools to improve language acquisition.
- 1.2 **"Customer User"** means any of Customer's authorized users of the System, which may include students, teachers, administrators, or other Customer personnel.
- 2 **Services.** Company shall perform the services listed in the order form executed by both parties ("Order Form") and/or described in any Statement of Work executed by both parties ("SOW") that may be agreed to by both Parties from time to time (and such services are, the "Services"), with any such Order Form or SOW incorporated into this Agreement by reference.
- 3 **Fees and Payment.** Customer will pay the fees as set forth in the Order Form or SOW. The Customer will provide Company with a valid purchase order within ten (10) days of signing the Order Form or SOW. Company will invoice Customer based on such Order Form or SOW, and all invoices are payable within 30 days following receipt by Customer.
- 4 **Term.** The term of this Agreement shall commence on the Effective Date, and it shall continue for so long as Company provides access to the System and/or Services to the Customer pursuant to a valid Order Form or SOW (the "Term"). The term of any particular Services is as provided on the Order Form or SOW.

5 License Grant

- 5.1 During the term of the applicable Order Form(s) and/or SOW(s), and subject to the terms and conditions of this Agreement, Company grants Customer a limited, worldwide, non exclusive, non-transferable right to access and use the features and functionality of the System for the number of users listed on an Order Form or SOW solely for Customer's internal educational purposes in accordance with the terms and conditions expressed in this Agreement. All rights not specifically granted in this Agreement are fully reserved by Company.

6 Restrictions

- 6.1 **Prohibited Use** Customer will not, and will ensure that Customer Users do not, (a) use the System other than in compliance with this Agreement and applicable federal, state, and local laws; (b) frame, distribute, resell, or permit access to the System by any third party; (c) interfere with the System or disrupt any other users' access to the System; (d) attempt to gain unauthorized access to the System, or attempt to discover the underlying source code or structure of the System, or otherwise reverse engineer the System; (f) submit to the System any content or data that is false, misleading, defamatory or threatening; infringing of intellectual property rights; reasonably deemed to involve moral turpitude or that contains mass mailings or any form of "spam"; (g) submit to the System any data or code that contains a time bomb, virus, or any other malware that is designed to delete, disable or otherwise inhibit or harm any element of the System, or which is intended to provide unauthorized access to the System; or (h) use any robot, spider, data scraping or extraction tool or similar mechanism with respect to the System.
- 6.2 **Customer Responsibilities** Customer must comply with, and ensure that its Customer Users comply with, the Company's Terms of Use found at <https://ellevationeducation.com/platform-legal-notice>, as well as ensure that: (a) Customer provides true, accurate, current and complete information to create and maintain accounts; (b) neither Customer nor any Customer User circumvents or otherwise interferes with any user authentication or security mechanism used by Company; (c) Customer Users maintain the confidentiality of their usernames and passwords; (d) neither Customer nor any Customer User will impersonate another user of the System or provide false identity information to gain access to or use the System; and (e) Customer immediately notifies Company of any known or suspected unauthorized access to Customer or Customer User accounts or compromise of account credentials.

7 Ownership and Rights

- 7.1 **Ownership of Customer Content; De-identified Data** Customer retains all right, title and interest in (a) any data, files, images, and other content that Customer or a Customer User uploads or submits to the System pursuant to this Agreement; and (b) any reports produced by Customer in connection with use of the System (collectively, "Customer Content"). "Customer Content" does not include de-identified data, which Company may create using Customer Content on a de-identified basis (a) to develop and improve its products; (b) for the purposes of adaptive and customized learning; (c) for research and development purposes; (d) to demonstrate the effectiveness of its products.
- 7.2 **Ownership of System** The Services, including all trademarks, service marks, logos, documents, graphics, content, and/or other materials viewed or obtained from or through the Services (collectively, "Service Materials"), are owned and/or licensed by Company and are protected by copyright and other intellectual property rights. Customer has no

rights to transfer, reproduce, or prepare any derivative works with respect to the Services, or to disclose confidential information pertaining to the Services. This Agreement does not convey to Customer or any Customer User any right of ownership in or related to the Service or other intellectual property owned by Company.

- 7.3 Feedback Customer may, at its option, provide to Company feedback or suggestions for enhancement concerning the System ("Feedback"), and Company will have a perpetual right to use and incorporate Feedback into the System without any compensation or other obligation to Customer. Customer shall not gain any right, title or interest in the System or Company's IP as a result of its furnishing or Company's use of Feedback.

- 8 **Confidentiality "Confidential Information"** of a Party ("**Disclosing Party**") means all financial, technical, or business information of the Disclosing Party that the Disclosing Party designates as confidential or that the other party ("Receiving Party") reasonably should understand to be confidential based on the nature of the information or the circumstances surrounding its disclosure. Without limiting the generality of the foregoing, Confidential Information includes (but is not limited to) personally identifiable student information; the Fees contained in any Order Form or SOW; and Company's IP and other proprietary tools, features and methodologies. Confidential Information does not include any information that (a) is or becomes generally known to the public without the Receiving Party's breach of any obligation owed to the Disclosing Party; (b) was independently developed by the Receiving Party without the Receiving Party's breach of any obligation owed to the Disclosing Party; or (c) is received from a third party who obtained such Confidential Information without any breach of any obligation owed to the Disclosing Party. Except as expressly permitted in this Agreement or by written consent of the Disclosing Party, the Receiving Party will not disclose, duplicate, publish, transfer or otherwise make available Confidential Information of the Disclosing Party in any form to any person or entity. The Receiving Party will not use Confidential Information except to perform its obligations under this Agreement. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information to the extent required by law, provided that the Receiving Party shall (x) give the Disclosing Party prior notice of such disclosure so as to afford the Disclosing Party a reasonable opportunity to appear, object, and obtain a protective order or other appropriate relief regarding such disclosure; (y) use diligent efforts to limit disclosure and to obtain confidential treatment or a protective order; and (z) allow the Disclosing Party to participate in the proceeding. Further, the Receiving Party will return or destroy all Confidential Information upon the Disclosing Party's request at any time, and/or after the termination or expiration of this Agreement, and (if requested by the Disclosing Party) certify such return or destruction in writing.

9 **Data Protection**

- 9.1 Privacy Policy Company maintains a Privacy Policy found at <https://ellevationeducation.com/platform-privacy-policy> and incorporated into this Agreement. Company reserves the right to modify the Privacy Policy in accordance with the procedure outlined in the Privacy Policy.
- 9.2 Family Educational Rights and Privacy Act Customers subject to the Family Educational Rights and Privacy Act, 34 C.F.R. §99 et. seq. ("FERPA"), appoint Company a "school official" as that term is used in FERPA, and determine that Company has a "legitimate educational interest" for the purpose of carrying out its responsibilities under this Agreement. Company shall be bound by the relevant provisions of FERPA, including that it will remain under the "direct control" of Customer with respect to its use and maintenance of "education records" as that term is defined in FERPA. Company will use personally identifiable student data only as necessary to fulfill the Services in performance of this Agreement, and will only share personally identifiable student data with its third-party vendors as necessary to fulfill the Services in performance of this Agreement.
- 9.3 Parental Consent. If Customer purchases Services available for use by students, , if required under applicable state or federal law, Customer will be responsible for obtaining verifiable parent consent prior to making such Services available to its students under the age of 13. Company shall comply with its responsibilities under the Children's Online Privacy Protection Act ("COPPA") and state law.
- 9.4 Data Security Company deploys security precautions intended to help maintain the confidentiality, integrity, and availability of Customer data stored by Company, including use of firewalls, encryption, authentication technologies and background screenings for all employees. However, the internet is not perfectly secure and Company is not responsible for security incidents not reasonably foreseeable or reasonably within its control. Customer specifically shall not provide to Company, or store on the System, the Social Security number, driver's license or state-issued identification card number, financial account number, or credit or debit card number of any Customer student or employee.
- 9.5 Notification of Breach Company shall notify Customer within 48 hours of determination that an actual data breach impacting Customer has occurred. Company shall be responsible for the direct costs associated with a breach not caused by Customer or Customer Users.
- 9.6 Legal Requests for Data If Company receives a court order or subpoena for Customer Content, Company shall provide the Customer with a copy of such court order or subpoena within two (2) business days of its receipt, unless legally prohibited from doing so.
- 10 **Representation and Warranties; Disclaimers**
- 10.1 Company Representations and Warranties Company represents and warrants that (a) it has the necessary authority to enter into this Agreement; (b) it will provide the System and related services in a professional and workmanlike

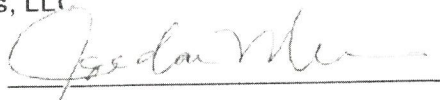
manner and in accordance with the specifications set forth in any Order Form or SOW; and (c) it will comply with all applicable laws.

- 10.2 **Customer Representations and Warranties** Customer represents and warrants that (a) it has the necessary authority to enter into this Agreement; (b) it has all rights, permissions and consents necessary to submit all Customer Content to the System and to grant Company the rights to use Customer Content as set forth in this Agreement; (c) any material uploaded to the System does not contain anything that is defamatory, libelous, infringes upon any third party intellectual property rights, or violates any confidentiality obligations Customer has with a third party; and (d) it will comply with all applicable laws.
- 10.3 **Company Disclaimer** Customer acknowledges that, as an internet-delivered software application, the System may experience periods of downtime, including (but not limited to) due to scheduled maintenance and third-party service outages. Accordingly, COMPANY DOES NOT WARRANT THAT THE SYSTEM WILL BE ERROR-FREE OR OPERATE WITHOUT INTERRUPTIONS OR DOWNTIME. COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SYSTEM, INCLUDING ITS DOCUMENTATION, THE SYSTEM SOFTWARE, OR ANY DATA OR CONTENT MADE AVAILABLE THROUGH THE SYSTEM. COMPANY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ACCURACY.
- 11 **Insurance.** Company shall provide professional liability insurance of no less than \$1,000,000 per incident and \$2,000,000 in the aggregate. Upon written request, Company shall file with the Customer a Certificate of Insurance, that includes the liability coverage limits, dates of coverage, and names the District as an additional insured.
- 12 **Termination.**
- 12.1 **Termination** Either party may terminate this agreement (a) immediately if the other party breaches any material provision and fails to cure its breach within 20 days after receiving the other party's written notice identifying the breach, or (b) for any or no reason, upon 60 days' prior written notice. Nevertheless, the Agreement will remain in effect for as long as Company is continuing to provide the System or Services to the Customer pursuant to a valid Order Form or SOW. In addition, Company may suspend Customer's access to the Services immediately if Customer fails to make a payment more than 30 days following its due date. Customer agrees to use any professional development or training Services prior to termination or expiration of Customer's access to the System. Otherwise, Customer risks losing those Services.
- 12.2 **Treatment of Customer Content at Termination** Customer shall have 30 days following the termination or expiration of this Agreement to provide Company with a written request for a one-time, delimited file export of its data from the System via SFTP. Regardless of whether Customer makes such a written request, and except as otherwise provided in this Agreement, within 90 days of the termination or expiration of this Agreement Company will securely destroy any and all of Customer's personally identifiable student data stored in the System, including any such data stored in Company's backup systems.
- 13 **Indemnification**
- 13.1 Company will defend and indemnify Customer and its employees and agents from and against any third party claim, demand or action, and all resulting damages, settlement amounts, penalties, costs and expenses, to the extent such claim, demand or action alleges that the System, or Customer's use thereof in accordance with this Agreement, infringes or violates any copyright, trademark, U.S. patent, or other proprietary right of any third party; provided, that Company will not be obligated under this Section to the extent any such infringement or violation arises from use of the System in combination with technology or services not provided by Company.
- 13.2 Unless prohibited by applicable law, Customer will defend and indemnify Company and its corporate affiliates, directors, officers, employees, successors, assigns and agents from and against any third party claim, demand or action, and all resulting damages, settlement amounts, penalties, costs and expenses, that arises out of or relates to Customer Content, including claims that Customer Content infringes or violates any intellectual property or proprietary right of a third party, violates any confidentiality obligation owed to a third party, or violates any applicable law or regulation; provided, that Customer will not be obligated under this Section to the extent any such claim arises from Company's use of Customer Content in violation of this Agreement.
- 14 **LIMITATION OF LIABILITY. NEITHER PARTY WILL BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES IN CONNECTION WITH ANY CLAIM OF ANY NATURE ARISING UNDER THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN GIVEN ADVANCE NOTICE OF SUCH POSSIBLE DAMAGES. IN ADDITION, NEITHER PARTY'S AGGREGATE LIABILITY FOR ALL CLAIMS OF ANY NATURE ARISING OUT OF THIS AGREEMENT (EXCLUDING ITS OBLIGATIONS OF CONFIDENTIALITY AND INDEMNIFICATION) WILL NOT EXCEED THE FEES ACTUALLY PAID TO COMPANY UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM.**
- 15 **Notices.** All notices under this Agreement must be in writing and sent via email, if to Company, to 'notices@ellevationeducation.com' or, if to Customer, at the email address provided on the Order Form.
- 16 **Entire Agreement.** The Agreement together with any Order Form, SOW and the Terms of Use, represents the entire agreement between the parties regarding Customer's use of the System and related matters addressed in this Agreement, and supersedes any prior oral or written agreements, promises, representations, warranties, or inducements between or by the parties regarding such subject matters.

- 17 **Assignment.** Company may not assign this Agreement without Customer's prior written consent, not to be unreasonably withheld; provided, however, that no consent shall be required for the assignment of this Agreement to the acquirer of all or substantially all of Company's assets or equity, provided that such successor agrees to be bound by all of the terms and conditions hereof.
- 18 **Force Majeure.** Except for Customer's obligation to make payments hereunder, neither party shall be liable for delay or default under this Agreement if caused by conditions beyond its reasonable control, whether or not foreseeable (e.g., technology malfunctions, outages of Internet Service; outages in third party hosted services), or any other Force Majeure events. "**Force Majeure**" means an armed conflict, flood, epidemic, pandemic, labor strike or shortage, governmental decree or regulation, court order, severe weather, fire, earthquake, act of terrorism, failure of suppliers, or unavailability of communications transport facilities.
- 19 **Miscellaneous.** This Agreement shall be governed by the laws of the state where Customer is located without regard to the conflict of law provisions of such state. If a court of competent jurisdiction finds any provision of this Agreement to be illegal or unenforceable, the parties intend that the court shall modify such provision to make such provision and this Agreement valid and enforceable. The provisions of this Agreement are severable, and any illegal or unenforceable provision, or any modification by any court, shall not affect the remainder of this Agreement, which shall continue at all times to be valid and enforceable. This Agreement can only be modified by a writing signed by both parties. The failure of the parties to insist upon or enforce strict performance of any provision of this Agreement or to exercise any right or remedy thereunder will not be construed as a waiver by such party to assert or rely upon any such provision, right, or remedy in that or any other instance. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages electronically by the parties will constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes.

Curriculum Associates, LLC

By (Signature):



Name (Print):

Jordan Meranus

Title:

CEO, Ellevation

Date:

6/17/22

Hollister School District, CA

By (Signature):



Name (Print):

Jennifer Miller

Title:

EL Coordinator

Date:

6/16/22

accept as ammendment
Jennifer Miller
6/21/22

June 17, 2022

Hollister School District
2690 Cienega Road
Hollister, CA 95023

Re: Independent Contractor Agreement

To Whom It May Concern,

Reference is made to that Independent Contractor Agreement dated June 16, 2022 (the "Agreement") between the Hollister School District (the "District") and Curriculum Associates, LLC ("Curriculum Associates").

➔ Regarding Paragraph 5, Curriculum Associates wishes to clarify that "CONFIDENTIAL INFORMATION" does not include de-identified data, which refers to information generated from usage of Curriculum Associates' proprietary software solutions from which all personally identifiable information has been removed or obscured so that it does not identify individuals and there is no reasonable basis to believe that the information can be used to identify individuals.

➔ Regarding Section 4, Compensation, Curriculum Associates wishes to clarify that payment is due up front, in full, in accordance with Order Form Q-33303 attached to and incorporated into the Agreement.

➔ Regarding Section 7, Fingerprinting and Criminal Records Check of Contractor's Employees, Curriculum Associates wishes to clarify that fingerprinting and criminal records check requirements will apply to any employees working on site under the Agreement with direct unsupervised contact with students.

➔ Regarding Section 9, Assignment, Curriculum Associates wishes to clarify that the Agreement may not be assigned, except in connection with the sale of all or substantially all of the outstanding assets or equity of Curriculum Associates.

Regarding Section 10, Notice, notice to Curriculum Associates should be addressed as follows:



Curriculum Associates, LLC
Attn.: Legal Department
153 Rangeway Road
North Billerica, MA 01862
legal@cainc.com

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➤ Regarding Section 11, Equipment and Materials, Curriculum Associates wishes to clarify that computers and internet access will be provided by the District.

➤ Regarding Section 12, Entire Agreement of the Parties, Curriculum Associates wishes to clarify that the Agreement is the entire agreement between the parties with respect to the subject matter therein.

Sincerely,



Jordan Meranus

Chief Executive Officer, Ellevation



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/16/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Eastern Insurance Group LLC 233 West Central St Natick MA 01760	CONTACT NAME: Marisa Coppola O'Malley PHONE (A/C, No, Ext): 800-333-7234 FAX (A/C, No): E-MAIL ADDRESS: MCoppolaOMalley@easterninsurance.com														
INSURED Curriculum Associates LLC 153 Rangeway Road North Billerica MA 01862	INSURER(S) AFFORDING COVERAGE <table border="1"><thead><tr><th>INSURER</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A : Hartford Fire Insurance Co</td><td>19682</td></tr><tr><td>INSURER B : Trumbull Insurance Company</td><td>27120</td></tr><tr><td>INSURER C : Hartford Casualty Ins Co</td><td>29424</td></tr><tr><td>INSURER D : Westchester Surplus Lines Insurance Co</td><td>10172</td></tr><tr><td>INSURER E :</td><td></td></tr><tr><td>INSURER F :</td><td></td></tr></tbody></table>	INSURER	NAIC #	INSURER A : Hartford Fire Insurance Co	19682	INSURER B : Trumbull Insurance Company	27120	INSURER C : Hartford Casualty Ins Co	29424	INSURER D : Westchester Surplus Lines Insurance Co	10172	INSURER E :		INSURER F :	
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COVERAGES**CERTIFICATE NUMBER:** 1551109838**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																												
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <table border="0"><tr><td><input type="checkbox"/> CLAIMS-MADE</td><td><input checked="" type="checkbox"/> OCCUR</td></tr><tr><td colspan="2"><input checked="" type="checkbox"/> Abuse & Molestat</td></tr><tr><td colspan="2"><input checked="" type="checkbox"/> \$1M Occ/\$2M Agg</td></tr><tr><td colspan="2">GEN'L AGGREGATE LIMIT APPLIES PER:</td></tr><tr><td><input checked="" type="checkbox"/> POLICY</td><td><input type="checkbox"/> PRO-JECT</td></tr><tr><td colspan="2"><input type="checkbox"/> LOC</td></tr><tr><td colspan="2">OTHER:</td></tr></table>	<input type="checkbox"/> CLAIMS-MADE	<input checked="" type="checkbox"/> OCCUR	<input checked="" type="checkbox"/> Abuse & Molestat		<input checked="" type="checkbox"/> \$1M Occ/\$2M Agg		GEN'L AGGREGATE LIMIT APPLIES PER:		<input checked="" type="checkbox"/> POLICY	<input type="checkbox"/> PRO-JECT	<input type="checkbox"/> LOC		OTHER:				08UUNBA6769	1/1/2022	1/1/2023	<table border="0"><tr><td>EACH OCCURRENCE</td><td>\$ 1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$ 300,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$ 10,000</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$ 1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$ 2,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$ 2,000,000</td></tr><tr><td></td><td>\$</td></tr></table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000	MED EXP (Any one person)	\$ 10,000	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 2,000,000	PRODUCTS - COMP/OP AGG	\$ 2,000,000		\$
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A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y / N <input checked="" type="checkbox"/> N / A			08WBAE7J6L	1/1/2022	1/1/2023	<table border="0"><tr><td><input checked="" type="checkbox"/> PER STATUTE</td><td><input type="checkbox"/> OTH-ER</td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$ 1,000,000</td></tr><tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$ 1,000,000</td></tr><tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$ 1,000,000</td></tr></table>	<input checked="" type="checkbox"/> PER STATUTE	<input type="checkbox"/> OTH-ER	E.L. EACH ACCIDENT	\$ 1,000,000	E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	E.L. DISEASE - POLICY LIMIT	\$ 1,000,000																				
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D	Professional Liability & Cyber Liability			F15306580003	1/1/2022	1/1/2023	<table border="0"><tr><td>Each Claim/Agg Prof/Cyber Deductible</td><td>\$5,000,000 \$250,000/\$250,000</td></tr></table>	Each Claim/Agg Prof/Cyber Deductible	\$5,000,000 \$250,000/\$250,000																										
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

Hollister School District
2690 Cienega Rd
Hollister CA 95023

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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