

This Agreement shall be posted on the CPS website.

**AGREEMENT  
FOR STUDENT ASSESSMENTS AND RELATED SERVICES  
(College Board)**

This **AGREEMENT FOR STUDENT ASSESSMENTS AND RELATED SERVICES** (this "**Agreement**"), is made and entered into as of 1st day of July, 2017 (the "**Effective Date**"), between the Board of Education of Chicago, commonly known as Chicago Public Schools, a body corporate and politic, organized under the laws of the State of Illinois, with offices at 42 W. Madison, Chicago, IL 60602 (the "**Board**" or "**CPS**") and College Entrance Examination Board, d/b/a The College Board, with offices located at 8700 W. Bryn Mawr Avenue, Suite 900N, Chicago, Illinois 60631 ("**College Board**").

**RECITALS:**

- A. College Board provides a number of materials to assist students in the transition to college through programs and services in college readiness and college success, including but not limited to the SAT® and the Advanced Placement® program;
- B. Based on Office of Teaching & Learning's ("Teaching & Learning") presentation that College Board is a single source for these services, the Board's Chief Procurement Officer approved a request to continue to obtain these services as described further in this Agreement from College Board;
- C. College Board has demonstrated expertise in providing services, has represented that it has the requisite knowledge, skill, experience, and other resources necessary to perform such services, and is desirous of providing such services for the Board; and
- D. The Board chose College Board to provide the services described in this Agreement and the parties now wish to execute this Agreement that defines the nature of their relationship, establishes pricing, and describes the manner in which services will be furnished by College Board.

NOW THEREFORE, in consideration of the foregoing, which are incorporated into and made a part of this Agreement by this reference, and the mutual covenants contained herein, the parties agree as follows:

- 1. **Term of Agreement:** This Agreement is for a term commencing on its Effective Date and continuing through June 30, 2020 ("**Term**"), unless terminated sooner as provided herein.
- 2. **Scope of Services:** College Board agrees to provide the Services as described in this Agreement. "**Services**" means, collectively, the services, deliverables, duties and responsibilities described in the Scope of Services attached to and incorporated into this Agreement as Exhibit A and other documents attached to this Agreement by agreement of the parties, as may be amended in accordance with the terms of this Agreement, and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement. The Board retains final authority with respect to all decisions related to the Services. The Board may, from time to time, request changes in the scope of Services. Any such changes, including but not limited to any increase or decrease in College Board's compensation, shall be in accordance with the Change Management Process described in this Agreement and shall be documented by a written amendment to this Agreement signed by the authorized representatives of both parties and the Board's General Counsel.
- 3. **Compensation, Purchase Orders and Payment:**
  - 3.1. **Compensation:** College Board shall be compensated in accordance with the pricing set forth in the Budget/Pricing/Payment Section of the Scope of Services. The total

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maximum compensation payable to College Board during the Term shall not exceed the amount authorized in Board Report Number 17-0628-PR3, currently Eight Million Three Hundred Fifty Thousand Dollars (\$8,350,000.00) ("**Maximum Compensation Amount**"), as may be amended. It is understood and agreed that the Maximum Compensation Amount is a 'not-to-exceed amount' and is not a guaranteed payment. The Board shall not reimburse for any expenses. Compensation shall be based on actual Services performed during the Term of this Agreement, and the Board shall not be obligated to pay for any Services or deliverables not in material compliance with this Agreement. In the event the Agreement is terminated early, the Board shall only be obligated to pay the fees incurred up to the effective date of termination and College Board shall refund promptly to the Board any payments received for Services and deliverables not provided.

**3.2. Purchase Order:** Any purchases by the Board of Services covered by this Agreement will be completed by submitting an order on the Board's Standard Purchase Order Form ("PO"). The pre-printed terms and conditions found on the PO shall apply to the extent that such terms supplement and are not inconsistent with the terms and conditions contained in this Agreement. Services shall not be provided without a valid PO. If College Board provides any Services without a valid PO, College Board shall not be entitled to receive any payment for such Services.

**3.3. Billing and Payment Procedures:** All invoices must be submitted electronically via email in PDF format to [cpsinvoice@cps.edu](mailto:cpsinvoice@cps.edu). Each email may only contain one invoice and must include your vendor name and the CPS Purchase Order number. All invoices must include:

- Vendor name and payment address
- Unique invoice number (determined by College Board)
- Valid purchase order number (only one PO number may be referenced on each invoice)
- Invoice date
- Itemized description of the services rendered and/or goods delivered
- Date the services were provided and/or goods were delivered to CPS
- Detailed pricing information such as quantities, unit prices, discount, and final net amount due

Invoices shall be submitted in a timely manner. The final invoice shall be submitted no later than ninety (90) days after the expiration or termination of this Agreement. If College Board has more than one contract with the Board, separate invoices must be submitted for each contract. The Board shall process payments in accordance with the Local Government Prompt Payment Act (50 ILCS 505/1 *et seq.*). The Board reserves the right to request additional information and supporting documentation necessary for the Board to verify the Services provided under this Agreement.

**3.4. Electronic Payments:** College Board agrees that, at the Board's sole discretion, the Board may make payment electronically to College Board for any and all amounts due by means of the Board's procurement charge card account. College Board recognizes that any charge to the Board's procurement charge card that is in excess of the open remaining amount as stipulated in the applicable Purchase Order, or any charge unaccompanied by the requisite documentation and data as required by the Board, shall be deemed invalid and disputed by the Board. College Board further recognizes that, in the absence of any supporting documentation as may be required by the Board, payments associated with disputed charges shall be rescinded by the Board and deemed not owed by the Board. College Board agrees to comply with the rules, procedures and documentation required for electronic payment via the Board's procurement charge card as established by the Board's Department of Procurement.

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4. **Personnel:** College Board agrees to assign and maintain during the Term of this Agreement, an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as reasonably needed, and qualified to perform the Services. If the Board determines, in its sole discretion that any employee, subcontractor or other person providing Services hereunder for College Board is not performing in accordance with the performance standards or other requirements of this Agreement, the Board shall have the right to direct College Board to remove that person from performing Services under this Agreement.

5. **Standards of Performance:** College Board shall devote, and shall cause all of its employees, agents and subcontractors, if any, to devote, such of their time, attention, best skill and judgment, knowledge and professional ability as is necessary to supply all Services effectively and efficiently and to the satisfaction of the Chief Officer of Teaching & Learning. College Board shall retain and utilize, as required by law or by this Agreement, professionals licensed to practice in the State of Illinois in the applicable profession. College Board shall use efficient business administration methods and perform the Services in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and in an expeditious and economical manner consistent with the best interests of the Board, so as to assure, among other things, that the Services are supplied at a reasonable cost to the Board and that Services supplied by other entities or persons in connection with this Agreement are efficiently and cost-effectively delivered. The parties do not anticipate that College Board will be entrusted with or have access to valuable or confidential information or records of the Board, that with respect to that information, would hold College Board to the standard of care of a fiduciary. In the event that College Board should receive information that would hold College Board to the standard of care of a fiduciary, College Board shall notify CPS and return such information immediately. Any review, approval, acceptance of Services or deliverables or payment for any of the Services by the Board does not relieve College Board of its responsibility for the professional skill, care, and technical accuracy of its Services and deliverables. College Board shall remain responsible for the professional and technical accuracy of all Services, including any deliverables furnished, whether by College Board or its subcontractors or others on its behalf.

6. **Change Management Process:** During the Term of this Agreement, the parties may determine that change(s) to the scope of Services or other terms of this Agreement is necessary. In such an event, the parties shall determine if the proposed change amounts to a material revision as described in this Section before determining how that change will be documented.

6.1. **Material Revision:** A material revision includes but is not limited to: (i) increasing the cost of the Services to be provided during the Term of this Agreement beyond the Maximum Compensation Amount identified in this Agreement; (ii) substantial reduction in the scope of Services; (iii) substantial expansion of the Services to be provided beyond the scope of Services authorized by the Board in this Agreement; (iv) extending the time of performance of Services beyond the time period approved by the Board; (v) change or modification to the legal terms and conditions; or (vi) any other shift of the rights, remedies, liabilities, risks, and obligations between College Board and the Board. A material revision requires a written amendment to the Agreement approved by the Board and the Board's General Counsel. Any material revision that is not documented and approved as set forth above shall be considered null and void with no legal effect.

6.2. **Statements of Work or Change Orders:** If the proposed change does not amount to a material revision, the Board's Chief Officer of Teaching & Learning and College Board's authorized representative shall agree in writing to a Statement of Work, Change Order, or such other mutually agreeable written documentation of the change before any change takes effect. All Statements of Work, Change Orders or other documentation shall: be numbered sequentially, contain a detailed written description of the change in the Services and any associated price reduction, state the date entered into by each party's authorized representative, be signed by each party's authorized representative, and include any

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applicable deliverable or milestone descriptions and deadlines. Any Services provided pursuant to a Statement of Work, Change Order, or other documentation will be subject to and comply with the terms of this Agreement. The Board shall consider any Statement of Work, Change Order, or other documentation to be null and void, in whole or in part, to the extent that it seeks to modify or amend any legal terms, conditions or provisions; shifts risks, liabilities or obligations between the parties; or otherwise constitutes a material revision to the detriment of the Board without the proper written agreement and approval as set forth in this Agreement.

7. **Non-appropriation:** Expenditures not appropriated by the Board in its current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event no funds or insufficient funds are appropriated and budgeted in any subsequent fiscal period by the Board for performance under this Agreement, the Board shall notify College Board and this Agreement shall terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. Payments for Services completed to the date of notification shall be made to College Board except that no payment shall be made or due to College Board under this Agreement beyond those amounts appropriated and budgeted by the Board to fund payments under this Agreement.

8. **Termination, Suspension of Services, Events of Default, Remedies and Turnover of Documents:**

8.1. **Early Termination:** The Board may terminate this Agreement in whole or in part, without cause at any time upon thirty (30) days' written notice. After notice is received, College Board must restrict its activities, and those of its subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed.

College Board shall not be entitled to make any early termination claims against the Board resulting from any subcontractor's claims against College Board or the Board to the extent inconsistent with this provision.

8.2. **Suspension of Service:** The Board may, upon fifteen (15) calendar days' written notice, request that College Board suspend supplying Services in whole or part; provided, however, that the Board understands and agrees that any suspension of Services may negatively impact College Board's ability to timely deliver Services, including, without limitation, its ability to deliver test booklets for an assessment. Further, the Board agrees and understands that the College Board may not be able to suspend certain Services, including, by way of example, providing assessment scores directly to students. College Board shall promptly resume supplying Services upon written notice from the Board and upon such equitable extension of time as may be mutually agreed upon, in writing, by the Board and College Board. Responsibility for any additional costs or expenses actually incurred by College Board as a result of remobilization shall be determined by mutual agreement of the parties.

8.3. **Events of Default:** Events of default ("Events of Default") include, but are not limited to, any of the following:

- a. Any action or failure to act by College Board in the performance of its obligations under this Agreement that affects the safety and/or welfare of students or Board staff;
- b. Any material misrepresentation by College Board in the inducement of the Agreement or the performance of Services;

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- c. Breach of any representation or warranty made by College Board in the Agreement;
- d. Default by College Board under any other agreement College Board may have with the Board;
- e. Assignment by College Board for the benefit of creditors or consent by College Board to the appointment of a trustee or receiver or the filing by or against College Board of any petition or proceeding under any bankruptcy, insolvency or similar law that is not dismissed within sixty (60) days of the date of its filing; or
- f. Failure of College Board to materially perform any of its obligations under this Agreement, including, but not limited to, the following:
  - (1) Failure to materially perform in accordance with terms, conditions, and specifications of this Agreement;
  - (2) Failure to materially perform any portion of the Services in the manner specified in this Agreement;
  - (3) Failure to materially perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services;
  - (4) Failure to promptly re-perform, within a reasonable time and at no cost to the Board, Services that were reasonably determined by the Board to be incomplete or unsatisfactory;
  - (5) Failure to perform the Services in a manner satisfactory to the Board in its reasonable discretion, or inability to perform the Services satisfactorily for reasons within College Board's reasonable control;
  - (6) Failure to comply with any term of this Agreement, including but not limited to, the provisions concerning insurance and nondiscrimination (as may be determined by a court of competent jurisdiction), and any other acts specifically and expressly stated in this Agreement constituting an Event of Default.

8.4. **Remedies:** The Board in its sole discretion may declare College Board in default if College Board commits an Event of Default. College Board shall have a reasonable opportunity to cure the default within a certain period of time, which shall be not less than fifteen (15) business days (the "**Cure Period**"). The Chief Procurement Officer shall give College Board written notice of the default in the form of a cure notice ("**Cure Notice**").

The Chief Procurement Officer may give a default notice without an opportunity to cure if, in his/her sole discretion, such a cure would involve an unacceptable risk of additional loss or damage to the Board, its students, or its employees. Otherwise, the Chief Procurement Officer may give a default notice after a Cure Notice if: (1) College Board fails to affect a cure within the Cure Period; or (2) if the Event of Default cannot be reasonably cured within said Cure Period, College Board fails to commence and continue diligent efforts to cure in the sole opinion of the Board.

A written default notice shall be final and effective termination of the Agreement, effective on College Board's receipt of the notice or on the date set forth in the notice, whichever is later. When a default notice is given, College Board must discontinue all Services unless otherwise specifically directed in the notice, and College Board must deliver to the Board all

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materials prepared or created in the performance of this Agreement, whether completed or in-process.

Upon the occurrence of an Event of Default, the Board may invoke any or all of the following remedies:

- a. The right to take over and complete the supply of Services or any part thereof, either directly or through others, as agent for and at the cost of College Board. In such an event, College Board shall be liable to the Board for any excess costs incurred by the Board. Any amount due College Board under this Agreement or any other agreement College Board may have with the Board may be offset against amounts claimed due by the Board;
- b. The right to terminate this Agreement, in whole or in part, as to any or all of the Services yet to be performed effective at a time specified by the Board;
- c. The right to suspend the performance of Services during the Cure Period if the default results from College Board's action or failure to act which affects the safety or welfare of students or Board staff. In the event that the performance of Services is resumed, College Board shall not be entitled to seek reimbursement from the Board for any additional costs and expenses incurred as a result of the remobilization;
- d. The right to seek specific performance, an injunction or any other appropriate equitable remedy for the Services which are the subject of an Event of Default;
- e. The right to receive from College Board any and all damages incurred as a result or in consequence of an Event of Default;
- f. The right to money damages;
- g. The right to withhold all or part of College Board's compensation under this Agreement for the Services which are the subject of an Event of Default; and
- h. The right to use an Event of Default as a basis to deem College Board non-responsible in future contracts to be awarded by the Board pursuant to the Board's Debarment Policy (08-1217-PO1), as may be amended.

The Board may elect not to declare College Board in default or to terminate this Agreement. If the Chief Procurement Officer decides not to terminate, then she or he may decide at any time thereafter to terminate this Agreement for a subsequent event of default in a subsequent default notice. The parties acknowledge that this provision is solely for the benefit of the Board and that if the Board permits College Board to continue to perform the Services despite one or more Events of Default, College Board shall in no way be relieved of any responsibilities, duties or obligations under this Agreement nor shall the Board waive or relinquish any of its rights under this Agreement.

The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall be construed as a waiver of any Event of Default or acquiescence thereto, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

If the Board's election to terminate this Agreement for default under this Section is determined by a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered an early termination pursuant the Early Termination provision above. In such an event, the Board shall undertake to reverse or remedy any

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actions that were taken in reliance of the right to exercise the Remedies set forth above, including but not limited to making sure that College Board is paid for any Services properly rendered in accordance with the Early Termination Section above, and not deeming College Board non-responsible in future contracts to be awarded by the Board pursuant to the Board's Debarment Policy (08-1217-PO1), as may be amended.

**8.5. Turnover of Documents and Records:** Upon demand of the Board after termination of the Agreement for any reason or the expiration of the Agreement by its terms, College Board shall turn over to the Board or its designee within five (5) days of demand, all materials, supplies, equipment owned or purchased by the Board, completed or partially completed work product or analyses, data, computer disks, documents and any other information relating in any way to this Agreement or the performance or furnishing of Services, except that College Board may keep a copy of such information necessary for its own records, subject to other restrictions contained in this Agreement regarding the retention and use of this information. Notwithstanding the foregoing, College Board is not required to turn over any scores or reports, which result from the assessments which are the subject of the Services that are not yet ready to be delivered.

**9. License, Implementation, Hosting, and Support:** To the extent that the Services require CPS, including but not limited to its employees, agents, subcontractors, and students, to use any websites, software, applications, or any other technology in order to receive the Services provided by College Board under this Agreement (collectively, "Technology"), the following terms shall apply to CPS's use of such Technology:

**9.1. Use of and Restrictions on Use of Technology:** The Technology remains the sole and exclusive property of College Board or, alternatively, the sole and exclusive property of a third party from whom College Board has obtained all necessary rights and permissions to sub-license the Technology to the Board. The Board shall not sell, lease, license or otherwise transfer, use or dispose of the Technology except as expressly provided herein. The Board shall not copy or knowingly permit the copying by any third party of the Technology (other than for a reasonable number of back-up copies) or distribute, market, sell, rent, lease, license, transfer, sublicense or assign to any third party any portion of the Technology except as permitted under this Agreement. The Board shall not make any alterations, additions or modifications, create derivative works, decompile, disassemble or reverse engineer the Technology without the prior written consent of College Board.

**9.2. Permissible Board Actions:** Nothing in this Section shall prevent the Board, its employees and representatives from sharing reports and data generated from College Board's Technology and Services with other vendors of the Board as part of the Board's ordinary operations in accordance with College Board's license of the reports generated from the assessments which are the subject of the Services.

**9.3. Integration of Technology in Services:** The Technology is an integral component of the Services provided pursuant to this Agreement. Therefore, where appropriate, the term "Services" shall be understood to include the Software.

**9.4. Licensed Users:** Individual authorized users of the Technology pursuant to this Agreement may be CPS employees, agents, subcontractors, students, and parents/guardians of students. Any license fees associated with the use of the Technology for any of the individual authorized users shall be set forth in the Budget/Pricing/Payment Section of the Scope of Services. Anyone using the Technology pursuant to the terms of this Agreement shall not be required to pay any additional fees or costs to College Board to use the Technology.

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**9.5. Technology Maintenance and Support:** During the Term of this Agreement, College Board shall be solely responsible for maintenance and support of the Technology and its accessibility to the Board.

**9.6. Controlling Agreement:** The Board and its users shall not be bound by the terms and conditions contained in any clickwrap agreement, clickwrap license, clickthrough agreement, clickthrough license, end user license agreement or any other agreement or license contained or referenced in the Technology or any quote provided by College Board. Even if a Board user agrees to any agreement or license contained or referenced in the Technology or a quote from College Board, College Board acknowledges and agrees that those terms and conditions are null and void and are not binding on the Board. Rather, College Board acknowledges and agrees that the terms and conditions of this Agreement represent the entire agreement of the parties for the Services. No additional terms or conditions shall apply to the Board unless a written amendment to this Agreement is made and signed by both parties and the Board's General Counsel. This Agreement is between the Board and College Board. To the extent that individuals may choose to use other websites and services, including but not limited to those provided by Khan Academy, which is recommended but not required by College Board, or to the extent that individuals may use College Board's resources or register for other assessments that are not the subject of this Agreement, the parties acknowledge that such use and services and the terms and conditions of such use and services are outside the scope of this Agreement. Notwithstanding this limitation, the Board hopes that College Board and its third party partners will provide services to its employees, agents, and students in a manner consistent with the terms of this Agreement.

**9.7. Compatibility and Data Flow:** If College Board is providing Technology to the Board for use on the Board's systems, College Board shall ensure that the Technology and Services allows data to flow properly between the hardware, software, equipment, network components, systems, services, and other resources that are owned or leased by, or licensed to, the Board (collectively, the "**Board Resources**"), College Board, and such other third party environments as may be necessary for the Board's requirements. College Board must ensure that any other resources that are provided by College Board, incorporated by College Board, or approved or recommended by College Board for use by the Board in connection with the Technology and Services, be fully compatible with, and must not materially and adversely affect the Board Resources, or be materially and adversely affected by each other. At all times, if College Board is providing Technology to the Board for use on the Board's systems, College Board must cooperate and work as requested with the other service providers of the Board to coordinate the development and the provision of Services with the services and systems of such other service providers. Such coordination shall include:

- a. Facilitating with such other relevant service providers the timely resolution of all problems that may arise and impact the Technology and Services, regardless of the actual or suspected root-cause of such problems, and using all commercially reasonable efforts to obtain and maintain the active participation, cooperation, and involvement of such other service providers as is required for such problem resolution;
- b. Providing information concerning the Technology, Services, data, computing environment, and technology direction used in implementing and the Technology and Services as may be necessary for troubleshooting and resolution of the problem;
- c. Working with the Board's other service providers in the implementation and integration of the Technology and Services with the Board Resources in the Board's environment and the integration and interfacing of the services of such other service providers with the Technology and Services;



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- d. Providing reasonable access to and use of the Technology and Services; and
- e. Performing other reasonably necessary tasks in connection with the Technology and Services in order to accomplish the foregoing activities described in this section.

In the event of any dispute between the parties as to whether a particular service or function falls within the scope of services to be provided by the Board's third-party service providers (or by the Board itself), or within the scope of Technology and Services provided by College Board, such particular service or function shall be considered to be a part of the Technology and Services hereunder if it is consistent with, and reasonably inferable to be within, the scope of College Board's Services, as set forth in this Agreement, and it more reasonably would be associated with the scope of College Board's Services than with the scope of the services to be provided by such other service providers. If any of the foregoing requires the disclosure of any proprietary information or confidential information of College Board to any third party, such third party shall be required to enter into a reasonable confidentiality agreement with Board, with terms substantially equivalent to those of this Agreement regarding the protection of Confidential Information.

College Board shall have no obligation under this section to ensure that the Board maintains an active internet connection. Any unavailability of the Technology or Services due to the Board's lack of an internet connection, unless such lack of an internet connection is caused by College Board or College Board's Technology or Services, shall be the sole responsibility of the Board.

10. **Hosting of the Technology and Board Data:** As part of the Services Technology provided pursuant to this Agreement, College Board shall host a certain website, and its software on hardware, components and equipment (collectively "Infrastructure") that College Board shall provide in order for the Board to retrieve certain information that are the subject of the Services (collectively, the "Hosting Services"). College Board, on its own or through subcontractors, shall be solely responsible for the continued operation of the Technology through the Term. This may include but is not limited to: an adequate disaster recovery plan; backup Infrastructure; secure connections between the Board Resources and the Infrastructure; and security controls and procedures to prevent unauthorized access to the Technology and Infrastructure. Hosting Services will be provided from a location within the continental United States. Furthermore, College Board is expected to provide ample storage within its servers and to take such action as is necessary (at no additional cost to the Board) to assure the continued performance of the Technology according to the parties' expectations under this Agreement through the Term. College Board is solely responsible for ensuring that any servers and other networks or hardware used in connection with the Hosting Services are appropriate for the Technology as described in this Agreement, as it may be amended. College Board shall replace at its own expense any servers as necessary and provide such additional servers and any other hardware as may be required to deliver the specifications and service levels described in this Agreement throughout the Term. The Hosting Services shall be included in the term "Services" as that term is defined and used herein.

11. **Confidential Information; Dissemination of Information; Ownership; Injunctive Relief; Survival:**

11.1. **Confidential Information:** In the performance of the Agreement, College Board may have access to or receive certain information that is not generally known to others ("Confidential Information" or "CPS Data"). Such Confidential Information may include, but is not limited to proprietary information, student data as further defined below, employee data, contractor data, unpublished school information, CPS financial information, and CPS business plans. It is understood and agreed that Confidential Information also includes proprietary or confidential information of third parties provided by the Board to College Board. Confidential Information will not include information that is: (i) or becomes

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part of the public domain through no fault of College Board; (ii) made available to College Board by an independent third party having the legal right to make such disclosure; and (iii) information that can be established and documented by College Board to have been independently developed or obtained by College Board without violating the confidentiality obligations of this Agreement and any other agreements with the Board.

**11.2. Student Data:** “Student Data” means any data, metadata, information, records, or other materials of any nature recorded in any form whatsoever, that is generated, disclosed, maintained by, transmitted, created, or provided by the Board, either directly or through its students, employees, agents, and subcontractors, that is directly related to a CPS student. This includes all information that is used, created, or generated through the Board’s use of the Services and that is directly related to a CPS student and, for the avoidance of any doubt, includes specifically any data that is submitted to or through the Technology as part of the Services provided pursuant to this Agreement.

Individual student scores derived from the College Board assessments are Student Data to the extent that CPS requested such scores from College Board and/or required a student to take the applicable assessment. Student assessments and the scores of those assessments that are completed as part of the Services provided pursuant to this Agreement and any data that an individual student provides to the College Board, either in digital or print format as part of the registration for the assessment or as part of the receipt of any other services provided under this Agreement, shall still be considered Student Data and Confidential Information unless specifically set forth otherwise in this Agreement.

Section 13 below identifies uses of Student Data and additional information that may be obtained from a student when the individual student or, where appropriate, his/her parent/legal guardian have provided his/her specific prior written consent.

It is understood and agreed that protection of Student Data as set forth in this Agreement shall be subject to the special requirements of the Family Educational Rights and Privacy Act (“FERPA”) and the Illinois School Student Records Act (“ISSRA”).

**11.3. De-Identified Data:** “De-identified Data” means any data provided by CPS, including by any of its students, employees, agents, and subcontractors, that has all direct and indirect personal identifiers removed including but not limited to persistent unique identifiers, name, ID numbers, date of birth, demographic information, location information, and school ID (“De-Identified Data”). College Board agrees not to attempt to re-identify De-identified Data provided by CPS. For the purposes of this Agreement, De-Identified Data provided by CPS will still be considered Confidential Information and treated as such unless expressly provided otherwise in this Agreement.

**11.4. Use of Confidential Information:** College Board shall:

- a. Only use Confidential Information for the sole purpose of delivering the Services to the Board hereunder, and shall not disclose the Confidential Information except to those of its officers, agents, employees, and subcontractors who have a need to access the Confidential Information for said purpose.
- b. Not copy or reproduce in any manner whatsoever the Confidential Information of the Board for any purpose outside the terms of this Agreement without the prior written consent of the Board.

**11.5. Transmitting and Storing Confidential Information:** When transmitting and storing Confidential Information, College Board shall use commercially reasonable best efforts, but at a minimum with no less protection than College Board uses to protect its own confidential information. When transmitting and storing Confidential Information that is

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personally identifiable ("Personally Identifiable Confidential Information"), which includes but is not limited to Student Data, College Board shall:

- a. When mailing physical copies of Personally Identifiable Confidential Information, send the Personally Identifiable Confidential Information with a tracking number and a delivery confirmation receipt;
- b. Only electronically transmit, mail, or store Personally Identifiable Confidential Information on electronic media, such as CDs, DVDs, electronic tape, flash drives, etc., if the Confidential Information is encrypted. Encryption must utilize modern cipher suites. College Board leverages the NIST standards for encryption in selecting the most appropriate methodologies to use. Any media containing Personally Identifiable Confidential Information shall only be mailed in accordance with the provisions of Section 11.5(a) above;
- c. Not send, via mail or electronically, any password or other information sufficient to allow decryption of Personally Identifiable Confidential Information with the Encrypted Confidential Information;
- d. Keep all physical copies (paper, portable or removable electronic media, or other physical representations) of Personally Identifiable Confidential Information under lock and key, or otherwise have sufficient physical access control measures to prevent unauthorized access. College Board shall not leave Personally Identifiable Confidential Information unsecured and unattended at any time;
- e. Password protect any desktop, laptop or any other device that contains Personally Identifiable Confidential Information. Additionally, any desktop or laptop that contains Personally Identifiable Confidential Information shall have its full hard drive Encrypted. College Board shall not leave any desktop, laptop, or any other device unattended without enabling a screen-lock or otherwise blocking access to the desktop, laptop, or other device. College Board shall ensure that no password or other information sufficient to access a desktop, laptop, or other device containing Personally Identifiable Confidential Information is attached to or located near the desktop, laptop, or other device at any time.
- f. Store Personally Identifiable Confidential Information on a proprietary file server that is: (i) located in the continental United States; and (ii) not shared by other entities. College Board shall ensure the security of the Personally Identifiable Confidential Information stored on the server by employing adequate security measures to prevent unauthorized access to that information. These measures include policies, procedures, and technical elements relating to data access controls. Data stored in cloud based systems must be protected in the same manner as local data as described throughout this Agreement. In addition, College Board shall use standard security protocols and mechanisms to protect the exchange and transmission of Personally Identifiable Confidential Information. Cloud based computing environments is only permitted via restricted access, by VPN or least privileged access lists, and never accessible directly via the Internet.

**11.6. Dissemination of Confidential Information:** Other than as may be required for the performance of the Services in accordance with this Agreement, College Board shall not disseminate any Confidential Information to a third party without the prior written consent of the Board. If College Board is presented with a request for documents by any administrative agency or with a *subpoena duces tecum* regarding any Confidential Information, which may be in College Board's possession as a result of Services and/or materials supplied under the Agreement, College Board shall immediately give notice to the Board and its General Counsel with the understanding that the Board shall have the

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opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party. College Board shall not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended.

**11.7. Dissemination of Student Data:** College Board may obtain prior, written consent from a student, or where required, the student's parent/legal guardian to release or disseminate specific Student Data for specified educational services. The student and/or parent/legal guardian should be fully informed of the use of such Student Data, which will be in accordance with College Board's privacy policies.

**11.8. Press Release; Publicity:** College Board shall not issue publicity news releases, grant press interviews, or use any Confidential Information or Board intellectual property (as defined below), including but not limited to the CPS logo or the logos of any schools, during or after the performance of Services without the prior express written consent of authorized representatives of the Board. Furthermore, College Board may not photograph or film or cause others to photograph or film within any CPS school or facility without the prior express written consent of the Board's Chief Communications Officer or his/her designee.

**11.9. Return or Destruction of Confidential Information:** College Board retains individual student scores and certain Student Data in accordance with its own retention policies and consistent with the uses of said Student Data as set forth in Section 13 below. Such Student Data is kept confidential in accordance with College Board's privacy policies. For Confidential Information, College Board shall destroy within five (5) days of the expiration or termination of this Agreement all Confidential Information unless the Board requests in advance that College Board retain said information for a specific period of time.

**11.10. Unauthorized Access, Use or Disclosure:** If College Board has knowledge of any unauthorized access, use and/or disclosure of Confidential Information, it shall: (i) notify the Board as reasonably practicable, which in no event shall be longer than forty-eight (48) hours from College Board receiving notice of the unauthorized access, use, or disclosure; (ii) take prompt and appropriate action to prevent further unauthorized access, use, or disclosure; (iii) cooperate with the Board and any government authorities with respect to the investigation and mitigation of any such unauthorized access, use, or disclosure, including the discharge of the Board's duties under the law; and (iv) take such other actions as the Board may reasonably direct to remedy such unauthorized access, use, or disclosure, including, if required under any federal or state law, providing notification to the affected persons. College Board shall bear the losses and expenses (including attorneys' fees) associated with a breach of Confidential Information, including without limitation any costs: (1) of providing notices of a data breach to affected persons and to regulatory bodies; and (2) of remedying and otherwise mitigating any potential damage or harm of the data breach, including without limitation, establishing call centers and providing credit monitoring or credit restoration services, as required by applicable law by the Board. College Board shall include this provision or a provision substantially similar in nature in any and all agreements they execute with subcontractors performing Services under this Agreement, except that any actions directed by the Board as permitted under this Section 11.9 shall be directed to College Board.

**11.11. Employees, Agents, and Subcontractors:** College Board agrees to provide its employees, agents, and subcontractors only such Confidential Information that is necessary for the performance of Services pursuant to this Agreement and to cause its employees, agents, and subcontractors to undertake the same obligations as agreed to herein by College Board.

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**11.12. Injunctive Relief:** In the event of an intentional dissemination of Confidential Information in breach of this Section, College Board acknowledges and agrees that the Board would suffer irreparable injury not compensable by money damages and would not have an adequate remedy at law. Accordingly, College Board agrees that the Board may be entitled to immediate injunctive relief to prevent or curtail any such breach, threatened or actual. The foregoing shall be in addition and without prejudice to such rights that the Board may have in equity, by law or statute.

**11.13. Additional Obligations Regarding Treatment of Student Data:** In addition to the above stated obligations for the treatment and handling of Confidential Information, College Board shall abide by the following obligations when handling Student Data:

- a. Student Data Use. College Board shall not use Student Data, including persistent unique identifiers, data created or gathered by College Board's site, Services, and Technology, to amass a profile about a CPS student or otherwise identify a CPS student except in furtherance of specific school purposes as may be agreed upon in writing between the Board and College Board. College Board will use Student Data only for the purpose of fulfilling its duties and performing Services under this Agreement, and for improving Services under this Agreement in a way that does not otherwise violate the terms of this Agreement regarding the treatment of Confidential Information.
- b. Student Data Collection. College Board will collect only Student Data necessary to fulfill its duties as outlined in this Agreement.
- c. Marketing and Advertising. Without the prior, written consent of the student or, where required, the student's parent or legal guardian, the College Board shall not advertise or market to students or their parents when the advertising is based upon any Student Data that College Board has acquired because of the use of that College Board's site, Services, or Technology. College Board shall provide to students and parents/legal guardians a means to withdraw consent or otherwise opt out of advertisements or marketing materials. Advertising or marketing may be directed to a school or Board only if the student information underlying the marketing and/or advertising is properly de-identified.
- d. Student Data Mining. College Board is prohibited from mining Student Data for any purposes other than those agreed to by the parties. Student Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited.
- e. Student Data Transfer or Destruction. College Board will ensure that all Student Data in its possession and in the possession of any subcontractors, or agents to whom College Board may have transferred Student Data, are destroyed or transferred to the Board under the direction of the Board when Student Data is no longer needed for its specified purpose.
- f. Rights and License in and to Student Data. Except as specifically set forth in this Agreement or as may be specifically set forth in an written consent provided by a student or the student's parent/legal guardian, Parties agree that all rights, including all intellectual property rights associated with such Student Data, shall remain the exclusive property of the Board. Nothing in this Agreement is meant and nothing shall be interpreted to mean that the Board releases any ownership or control of Student Data to which College Board may have access during the performance of the Services under this Agreement. Student Data shall remain the property of and under the control of the Board throughout the Term of this Agreement. College Board has a limited, nonexclusive license solely for the purpose

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of performing its obligations as outlined under the Agreement or as specified in a written consent obtained from a student or his/her parent/legal guardian. This Agreement does not give College Board any rights, implied or otherwise, to Student Data, content, or intellectual property, except as expressly stated in the Agreement or as specified in a written consent obtained from a student or his/her parent/legal guardian.

g. Sale of Student Data. College Board is prohibited from selling, trading, or otherwise transferring Student Data to any third parties, except with the express written prior consent of the authorized Board representative and approval of the Board's General Counsel or with the express written prior consent of the individual student or the student's parent/legal guardian whose data College Board is selling, trading, or otherwise transferring. This prohibition does not apply to the purchase, merger, or other type of acquisition of College Board by another entity approved by the Board in accordance with the Assignment Section of this Agreement, provided that College Board or successor entity continues to be subject to the provisions of this Agreement with respect to previously acquired Student Data.

h. Use of De-Identified Data. College Board may use De-Identified Data within College Board's site, Technology, other sites, services, or applications owned by College Board for product development, research, or other purposes to develop and improve educational sites, services, or applications. College Board may use De-Identified Data to demonstrate the effectiveness of College Board's products or services, including in its marketing, provided that College Board's marketing shall not identify or suggest that the Board or any of its students, employees, agents, or subcontractors approve of, recommend, vouch for, or otherwise positively advance the use of College Board's sites, services, or applications without the prior written consent of the individual identified and the Board's Chief Communications Officer.

i. Access. Any Student Data held by College Board will be made available to the Board upon request of the Board. The identity of all persons having access to Student Data through College Board will be documented and access will be logged.

j. Security Controls. College Board will store and process Student Data in accordance with the industry best practices and as determined by the College Board. This includes appropriate administrative, physical, logical, and technical safeguards to secure Student Data from unauthorized access, disclosure, and use. All data must be secured in transit using https/TLS 1.0+, and/or secure FTP services where appropriate. College Board is required to reasonably specify any Personally Identifiable Information (PII) collected or used by its Services and Technology. In addition, College Board must reasonably work towards or maintain industry recognized security practices to establish secure application(s), network, system, and any other infrastructure architectures. Industry certifications, such as International Organization for Standardization (ISO), SysTrust, Cloud Security Alliance (CSA) STAR Certification, or WebTrust security for SaaS environments are recommended.

Such safeguards shall be no less rigorous than generally accepted industry practices, including, for example, specifically the NIST 800-53r4 moderate level, International Organization for Standardization's standards ISO/IEC 27001:2005 (Information Security Management Systems – Requirements), and ISO-IEC 27002:2005 (Code of Practice for International Security Management). College Board shall ensure that the manner in which Student Data is collected, accessed, used, stored, processed, disposed of and disclosed complies with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement. College Board will conduct periodic risk assessments and remediate any identified security vulnerabilities in a

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timely manner. College Board will also have a written incident response plan, to include prompt notification of relevant stakeholders, including the Board where applicable, in the event of a security or privacy incident, as well as best practices for responding to a breach of Student Data security practices.

College Board shall assure that all Student Data that is transmitted between the Board's access points and College Board's servers, by College Board, will use encryption standards that are consistent with those generally accepted in the industry applicable to the College Board and its Services.

k. Security Safeguards: College Board agrees to provide the following additional safeguards:

- (1) Include component and system level fault tolerance and redundancy in system design.
- (2) Encrypt user passwords in any data storage location and obfuscate password entry fields in any entry interface controlled by the discloser.
- (3) Encrypt Student Data at-rest and in-transit.
- (4) Authentication of users at login with a 128-bit or higher encryption algorithm.
- (5) Secure transmission of login credentials.
- (6) Automatic password change routine.
- (7) Trace user system access via a combination of system logs and/or Google Analytics if applicable.
- (8) Secure (encrypt) the audit trails and system generated logs and ensure that they are stored in locations that are inaccessible to automated content discovery software.
- (9) Conduct or undergo system level testing whenever new functionalities are added to the system to reconfirm system security measures are retained and functional, and that interaction with systems is not degraded or compromised where possible.
- (10) Employ an in-line intrusion protection system that inspects incoming data transmissions.
- (11) Ensure that its documented disaster recovery plan includes the following elements:
  - (i) Available recovery times.
  - (ii) Conduct 24x7 system monitoring that is capable of detecting potential outages.
  - (iii) Plans for file-level, database and server recovery after a component/system failure, damage or compromise.
  - (iv) Substantial geographical separation between data centers hosting production, backup and redundant system elements.
  - (v) Include recovery/mitigation procedures for all managed sites, including subcontractors, agents, and other recipients.
  - (vi) Include provisions for at least the following events:
    1. Fire
    2. Natural disaster
    3. Sabotage

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4. Accidental human error
  5. Flooding
  6. Equipment failure
  7. Application/database failure
  8. Other unlikely events
- (vii) No less than annual testing of the disaster recovery plan (at least parts that affect Student Data).

(12) Prevention of hostile or unauthorized intrusion.

(13) Screening of employees who may be given access to Student Data to assure that any employees who are in violation of the statutes referenced in the Criminal History Records Search Section in the Agreement do not have access to Student Data. College Board shall provide the security measures taken to ensure that said employees do not have access to Student Data.

(14) Backup of all Student Data at least once every twenty-four (24) hours.

(15) Perform content snapshots at least daily and retain for at least ninety (90) days.

l. Data Security Manager: College Board shall provide the Board with the name and contact information for an individual who shall serve as the Board's primary security contact and who shall be available to promptly assist the Board as a contact in resolving obligations associated with a Student Data-related security breach. The designated contact shall respond to any Board inquiries within in a reasonable time period.

m. Transparency of Collection and Use of Student Data: College Board agrees to provide transparency to CPS, its students, the parents and legal guardians of its students, and the general public about the collection and use of Student Data by posting on College Board's website:

- (1) Contact information for College Board or any subcontractor that collects or generates Student Data;
- (2) The types of Student Data that is collected or generated by College Board and its subcontractors or disclosed to a third party and how the College Board shares and uses the Student Data;
- (3) The educational purpose(s) for which the Student Data is used;
- (4) College Board's policies and procedures regarding retention and disposal of Student Data;
- (5) Notice to the public when making changes to its privacy policies;
- (6) Procedures to facilitate access by students and parents/legal guardians to Student Data and to correct such Student Data, when applicable;
- (7) Process and procedures for reporting an alleged violation of privacy or security laws; and
- (8) Whether or not College Board has signed the Student Privacy Pledge posted at [studentprivacypledge.org](http://studentprivacypledge.org).



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11.14. **Survival:** The provisions of this Section shall survive the termination or expiration of this Agreement.

12. **Data Security and CPS Access Rights within the Technology:** Security and access rights to Student Data shall be hierarchical. CPS shall determine which of its personnel has access to specific categories of data. For instance, students shall not be able to access any other student's data or information. The Board's Chief Officer of Teaching & Learning shall, in conjunction with the College Board security team(s), make the final determination on who has access to what information within the Technology and any rules that may apply to the access of Student Data; provided, however, CPS agrees and understands that students may establish, or have established, online accounts with College Board to view their own information and to use the services provided by College Board.

13. **College Board's Use of Student Data**

13.1. **Clarifications on College Board's Use of Student Data:** The restrictions on College Board's use of Student Data does not:

- a. Impede the ability of a student to download, export, or otherwise save or maintain his or her own personally identifiable information ("PII") or documents.
- b. Limit internet service providers from providing internet connectivity to public schools or to students and their families.
- c. Prohibit College Board from marketing educational products directly to parents or legal guardians of students so long as College Board has obtained prior, informed written consent from the student's parent/legal guardian.
- d. Prohibit maintenance, development, support, improvement, or troubleshooting of College Board's website, online service, online application, or mobile application.
- e. Prohibit the response to a student's request for information or feedback related to the Services provided under this Agreement, provided College Board does not receive any payment or other consideration from a third party for the information or feedback.
- f. Prohibit the identification for a student of institutions of higher education or scholarship providers that are seeking students who meet specific criteria, only if College Board has obtained the prior, written consent of the student or the student's parent or legal guardian. College Board may use PII for this purpose regardless of whether the institutions of higher education or scholarship providers provide payment or other consideration to College Board.
- g. Prohibit the provision for the student, only with the prior, express written consent of the student or the student's parent or legal guardian given in response to clear and conspicuous notice, access to employment opportunities, educational scholarships or financial aid, or postsecondary education opportunities, regardless of whether the College Board receives payment or other consideration from one or more third parties in exchange for the PII. This exception applies only to contractors that provide nationally recognized assessments that postsecondary institutions of higher education use in making admissions decisions.

13.2. **Written Consent for College Board's Use of Student Data:** Notwithstanding the foregoing, College Board may collect, retain, use, and share the Student Data for the

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purposes outlined in this Section 13.2, (1) when it has obtained the express, informed, written consent of the student, if the student is of the age of majority, or the parent or legal guardian of the student who is not of the age of majority, when the student is being registered for an assessment provided by College Board; or (2) if the student and/or parent/legal guardian otherwise forms a direct relationship with College Board.

College Board will provide students or parents with a detailed paper document explaining the collection, use, and sharing of PII. The information details what PII is being collected, the optional nature of providing the PII, information regarding how the PII will be used and shared, processes the students or parents can follow to withdraw their consent, and a contact person for the students or parents to contact with any questions. College Board shall not collect, use, or share PII beyond the purposes set forth as follows:

a. Upon receiving the written consent of the student or student's parent or legal guardian as described above, College Board may collect information about students such as language background, religion, courses taken, student search services, college major, parent's highest level of education, and questions to determine entry into scholarship programs. This information is used for College Board's Student Search Service and is not provided to CPS in any form.

b. Data for students who expressly consent to the program are licensed to Higher Education institutions, but do not include social security numbers (SSN), actual test scores (searchable by bands only), disability status, or phone numbers. As part of the explanation of the collection, use and sharing of PII that is given as part of the written consent process, College Board will provide information explaining how the PII will be licensed.

c. Students Sending Scores to Colleges, Scholarship Organizations, or Other Institutions:

(1) College and University Electronic Score Reports and Paper Score Reports: Students can select colleges to send their scores to when they register, when they take the test, or after they receive their scores. Through 'score choice,' students can choose which scores to send. Students can also elect to send their scores to scholarship organizations or other registered groups at their choosing.

(2) SAT Trend Reports: College and universities can see reports containing only De-Identified Data on trends of students who send scores to their schools.

d. Connecting Students to Higher Education and Scholarship Institutions:

(1) Enrollment Planning Service: Analysis and reporting service that allows admission professionals to better understand the student market, precisely locate students, and conduct more strategic recruitment activities – only includes Aggregate Data.

(2) Segmentation Analysis Service: A location data tagging service that enables admission professionals to identify promising prospective students by knowing more about where they live and where they go to high school.

e. Providing Students Access and Opportunities to Services to Help them Achieve and Exceed Their Potential.

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- (1) **Access to Opportunity (A2O):** College Board implements interventions designed to help students navigate the college planning, application and financial aid processes. A2O identifies students who are on-track or high achieving, combined with low-income tagging or fee waiver use, and provide them with resources designed to address barriers they may face in the path to college access.
  - (2) **State Scholarship Feeds/Data:** State Higher Education Departments that offer scholarship to instate students can receive scores files for students meeting residency criteria.
  - (3) **National Scholarships, Awards and Recognition Opportunities (including Presidential Scholars and National Merit Scholars):** National Merit Scholars receives Student Data to provide students with the opportunity to receive national recognition and scholarships. Eligible students are shared with the US Department of Education and National Hispanic Recognition Program for scholarship consideration.
  - (4) **Apply to 4 of More:** Students and educators receive informational packets about the college application process and fee waivers to help them craft more successful application strategies. Students who receive the Apply to 4™ packets are chosen because they used a fee waiver to register for the SAT® or SAT Subject Tests™. Others are chosen on the basis of U.S. Census data. PSAT/NMSQT® and SAT scores are taken into account to ensure that these students are on track to be ready for college.
  - (5) **Realize Your College Potential:** Realize Your College Potential (RYCP) is part of ongoing research that sends packets of customized college information and college application fee waivers to high achieving, low-income, high school seniors.
  - (6) **Enhancing and Customizing Student Practice:** Students may opt-in to have their scores and key metadata shared with Khan Academy, so that their free SAT Preparation course can be tailored better to meet their needs.
- f. College Board may use assessment data to conduct the necessary internal research and analytics to validate and enhance its assessment programs.
- g. **Score Reporting to States, Schools and Districts:**
- (1) **K12 Reporting Portal:** An online, interactive portal for K12 institutions to view aggregate and student-level data for the students within their organizations, including administrations, graduating cohort years, and trends.
  - (2) **College Bound Seniors Reports:** Currently paper-based, summary data on the graduating class (cohort). Student data files available as well.
- h. **Score Reporting to District:**
- (1) **Integrated Summary Reporting:** Aggregate Data reporting from across SAT, PSAT Suite (PSAT 8/9, PSAT 10 and PSAT/NMSWT), and AP exams.

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- i. **Score Reporting to Schools & Districts:**
  - (1) **Roster Reporting:** Schools and districts can receive test-taking rosters through an online portal.
- j. **Reporting to Students:**
  - (1) **PSAT Suite and SAT Score Reporting to Students:** Paper and online reports are delivered to students after each administration of the SAT.
  - (2) **SAT Question and Answer Services:** Students may purchase reports that detail their individual answers and questions for disclosed forms. For non-disclosed forms, students can receive answer summaries with question topics and difficulty levels.
- k. College Board may use psychometric non-identifiable data obtained from student test-takers to ensure that tests are unbiased and created for students of all races, genders, and cultures.
- l. The parties agree that PII, as used in this Agreement, refer to information that College Board obtains solely in connection with this Agreement, and shall not be applicable to any information College Board has or may receive in connection with other programs and services provided to students, parents and educators in Chicago or the State of Illinois.
- m. Notwithstanding anything to the contrary in this Agreement, the parties agree that PII and related assessment information, including, without limitation, scores, shall be used and retained by College Board in order to provide College Board assessment-related services. Any such retained information shall be kept in accordance with the terms of this Agreement even after the termination or expiration of this Agreement.
- n. In the event that a student or former student withdraws his or her consent, College Board shall cease all uses, sharing, licenses, and sales of that student's data upon receiving the withdrawal notification.

**13.3 College Board's Privacy Policies:** To the extent that such terms do not conflict with the terms set forth in this Agreement, College Board's privacy policies are attached to this Agreement as Exhibit B. College Board shall protect CPS student information received in connection with this Agreement in accordance with College Board's privacy policies. The terms contained in this Agreement supersede and prevail over those in the privacy policies and nothing contained within the privacy policies shall be interpreted as the Board's acceptance of any limitation on its rights and remedies or a waiver of College Board's obligations, liabilities, duties, and responsibilities under this Agreement for services provided under this Agreement.

**14. Intellectual Property:**

**14.1. Intellectual Property Defined.** Intellectual Property shall mean all trademarks, trade dress, copyrights and other intellectual property rights in the materials used in the performance of Services under this Agreement.

**14.2. Board's Intellectual Property.** College Board agrees that all Confidential Information, as well as any intellectual property arising therefrom, shall at all times be and

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remain the property of the Board. Any intellectual property or other documents and materials created by the Board in connection with the Services ("**Board Materials**") shall be and remain the property of the Board. Board Materials shall exclude any and all (i) third party intellectual property, and (ii) pre-existing College Board intellectual property that is delivered to the Board as part of the Services. College Board shall execute all documents and perform all acts that the Board may request in order to assist the Board in perfecting or protecting its rights in and to intellectual property rights as defined in this Section. Upon written agreement between the parties, College Board may be licensed to use the Board's intellectual property for specifically defined uses and terms.

**14.3. College Board's Intellectual Property.** All intellectual property possessed by College Board prior to, created in, or concurrently with the performance of Services under this Agreement shall be and remain at all times "**College Board's intellectual property**", provided that no Confidential Information is used or disclosed in College Board's intellectual property. In the event that any Confidential Information is used or disclosed in any intellectual property, the Board shall have full and exclusive ownership rights to such intellectual property. Other than as may be expressly stated elsewhere in this Agreement, College Board grants to the Board a perpetual, royalty-free (other than the fees identified in this Agreement), non-transferable license to use such of College Board's intellectual property as may be necessary for the receipt and use of Services through the Term of this Agreement.

**14.4. Third Party Intellectual Property.** College Board represents and warrants to the Board that College Board, in connection with providing the Services, will not infringe on any presently existing United States patent, copyright, trademark, service mark, trade secret and/or other confidentiality or proprietary right of any person or other third party.

**14.5. Survival.** The obligations set forth in this Section shall survive the termination or expiration of this Agreement.

**15. Representations and Warranties of College Board:** College Board represents and warrants that the following shall be true and correct as of the Effective Date of this Agreement and shall continue to be true and correct during the Term of this Agreement:

**15.1. Licensed Professionals:** College Board is appropriately licensed under Illinois law to perform Services required under this Agreement and shall perform no Services for which a professional license is required by law and for which College Board, its employees, agents, or subcontractors, as applicable, are not appropriately licensed.

**15.2. Compliance with Laws:** College Board is and shall remain in compliance with all applicable federal, state, county, and municipal, statutes, laws, ordinances, and regulations relating to this Agreement and the performance of Services in effect now or later and as amended from time to time, including but not limited to the Prevailing Wage Act, 820 ILCS 130/1 et seq., the Drug-Free Workplace, the Illinois School Student Records Act, the Family Educational Rights and Privacy Act, the Protection of Pupil Rights Amendment and any others relating to non-discrimination. Further, College Board is and shall remain in compliance with all applicable Board policies and rules. Board policies and rules are available at <http://www.cps.edu/>.

**15.3. Good Standing:** College Board is not in default and has not been deemed by the Board to be in default under any other Agreement with the Board during the five (5) year period immediately preceding the Effective Date of this Agreement.

**15.4. Authorization:** In the event College Board is an entity other than a sole proprietorship, College Board represents that it has taken all action necessary for the approval and execution of this Agreement, and execution by the person signing on behalf of College Board is duly authorized by College Board and has been made with complete and full

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authority to commit College Board to all terms and conditions of this Agreement which shall constitute valid, binding obligations of College Board.

**15.5. Financially Solvent:** College Board warrants that it is financially solvent, is able to pay all debts as they mature and is possessed of sufficient working capital to complete all Services and perform all obligations under this Agreement.

**15.6. Gratuities:** No payment, gratuity or offer of employment was made by or to College Board in relation to this Agreement or as an inducement for award of this Agreement.

**15.7. Contractor's Disclosure Form:** The disclosures in the Contractor Disclosure Form, previously submitted by College Board, are true and correct. College Board shall promptly notify Board in writing of any material change in information set forth therein, including but not limited to change in ownership or control, and any such change shall be subject to Board approval which shall not be unreasonably withheld.

**15.8. Criminal History Records Check:** College Board represents and warrants that, at its own cost and expense, it shall have a complete fingerprint-based criminal history records check conducted on any and all volunteers, employees, agents and subcontractors who may have contact with CPS students under this Agreement (collectively "Staff") in accordance with the *Illinois School Code* (105 ILCS 5/34-18.5); the *Sex Offender and Child Murderer Community Notification Law* (730 ILCS 152/101 *et seq.*); and the *Murderer and Violent Offender Against Youth Registration Act* (730 ILCS 154/1 *et seq.*) ("**Records Check**"). It is understood and acknowledged that contact via text messages, live chats, emails or through any other means shall be considered "contact" for the purposes of this Section. A complete Records Check includes the following:

- (a) Fingerprint-based checks through the Illinois State Police and the FBI;
- (b) A check of the Illinois Sex Offender Registry; and
- (c) A check of the Violent Offender Against Youth Registry.

The purpose of the Records Check is to confirm that none of these persons have been convicted of any of the criminal or drug offenses enumerated in subsection (c) of 105 ILCS 5/34-18.5 or any offenses enumerated under the *Sex Offender and Child Murderer Community Notification Law*, or the *Murderer and Violent Offender Against Youth Registration Act*, or have been convicted within the past seven (7) years of any other felony under the laws of Illinois or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in the State of Illinois, would have been punished as a felony under the laws of Illinois.

College Board shall not allow any of its Staff to have contact with a CPS student until a Records Check has been conducted for that person and the results of the Records Check satisfy the requirements of 105 ILCS 5/34-18.5 and the requirements of all other Acts and Laws referenced in this Section, as may be amended. Within fifteen (15) business days before any Staff has contact with any CPS students and on or before this Agreement's anniversary date(s) during the Term and any Renewal Term, College Board shall submit a written report to CPS's Chief Officer of Safety & Security and/or its Deputy Chief of Network Security ("**CPS Safety Officer**"). The report shall include at least the following information:

- 1) The specific method of completing the Records Check;
- 2) The names of each Staff member who satisfactorily passed the Records Check within the quarter before s/he has any contact with a CPS student; and
- 3) The procedure to update each Staff member's Records Check through the Term (intervals between each Staff member's updates shall not be less than annually).

This Agreement shall be posted on the CPS website.

On a quarterly basis thereafter, College Board shall: (i) periodically check the Illinois Violent Offender Against Youth Registry and the Illinois Sex Offender Registry for each Staff member who has contact with students and shall immediately remove any Staff member who may be identified on either registry; (ii) provide a written report to CPS's Safety Officer listing the names of all new Staff members who have contact with CPS students and certifying that Records Checks were satisfactorily completed for those individuals before s/he had any contact with CPS students; and (iii) provide any other information requested by the Board.

If College Board fails to comply with this Section, in whole or in part, then, in addition to the Remedies set forth in this Agreement, the Board may exercise additional remedies, including but not limited to: (i) withholding payments due under the Agreement and any others that College Board may have with the Board; and (ii) immediately terminating this Agreement, in whole or in part, without any further obligation by the Board of any kind.

**15.9. Research Activities and Data Requests:** College Board shall not conduct research in the Chicago Public Schools or use Confidential Information for research other than as may be specifically allowed in this Agreement. In the event that College Board seeks to conduct research activities in the Chicago Public Schools or use Confidential Information for research purposes outside the scope of what is provided for in this Agreement, College Board shall comply with the Board's Research Study and Data Policy adopted on July 28, 2010, as may be amended from time to time. College Board acknowledges and agrees that it may not begin any research activities or obtain data for research purposes without the prior written consent of the Director of Performance Data and Quality or his or her designee.

**15.10. Original Content:** College Board shall ensure that all materials developed, created, adapted, used, provided and otherwise used in performance of the Services, particularly the content within the assessments that are a part of the Services, are original content and that such assessment forms have not been previously disclosed, contained, or made available within other materials that were accessible, used or provided to CPS students or the general public.

**15.11. Assignment of Warranties:** Intentionally Omitted.

**15.12. Documentation Warranty.** Intentionally Omitted.

**15.13. Ownership.** College Board is the owner of the Services and Technology or otherwise has the right to grant to the Board any Licenses without violating any rights of any third party, and there is currently no actual or threatened suit by any such third party based on an alleged violation of such right by College Board.

**15.14. Services Warranty:** College Board has carefully examined and analyzed the provisions of this Agreement, including but not limited to all exhibits attached and incorporated into it, and can and will perform, or cause, the Services to be performed in strict accordance with the provisions and requirements of the Agreement. Services will be performed in a timely, professional and workmanlike manner in accordance with all applicable industry and professional standards. If the Board notifies College Board, or if College Board becomes aware, of any non-performance, error or defect covered by the warranties contained in this Agreement, College Board shall, at its own cost and expense, promptly (but in no event later than thirty (30) days after written notification by the Board) correct such non-performance, error or defect. Any repair or replacement of Services or any portions thereof will be automatically warranted as provided herein.

**15.15. Technology Performance.** During the Term of the Agreement, the Technology shall (i) be free from defects in material and workmanship under normal use and remain in

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good working order, and (ii) function properly and in conformity with the warranties herein and in accordance with this Agreement and with the description, specifications and documentation on the Board Resources including any updates or new releases to such Resources as required and reasonably anticipated in the industry. The documentation shall continue to completely and accurately reflect the operation of the Technology. College Board shall promptly correct any failure of the Technology to perform in accordance with the current published specifications and documentation.

**15.16. Free of Computer Viruses.** College Board shall use commercially reasonable best efforts to ensure that the Services, the Technology, and any other software used in College Board's performance of its Services is free of malicious code, malware, Trojan horses, ransomware, worms, and other computer viruses.

**15.17. Not Alter Program.** College Board shall not, directly or through a third party, knowingly remove, alter, change or interface with the Technology or any other program for the purpose or preventing the Board from utilizing the Technology or any other program.

**15.18. No Disabling Code.** College Board shall not knowingly cause any disabling code to be incorporated into Technology.

**15.19. Prohibited Acts:** Within the three (3) years prior to the Effective Date of this Agreement, College Board or any of its members if a joint venture or a limited liability company, or any of its or their respective officers, directors, shareholders, members, managers, other officials, agents or employees (i) have not been convicted of bribery or attempting to bribe a public officer or employee of any public entity and (ii) have not been convicted of agreeing or colluding among contractors or prospective contractors in the restraint of trade, including bid-rigging or bid-rotating, as those terms are defined under the Illinois Criminal Code.

**15.20. Debarment and Suspension:** College Board certifies to the best of its knowledge and belief, after due inquiry, that:

- i. it, its principals, and its subcontractors providing Services under this Agreement are not barred from contracting with any unit of state or local government as a result of violation of either Section 33E-3 (bid-rigging) or Section 33E-4 (bid rotating) of the Illinois Criminal Code (720 ILCS 5/33A *et seq.*);
- ii. it, its principals, and its subcontractors providing Services under this Agreement are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency or any unit of State or local government; and
- iii. it, its principals providing Services under this Agreement have not violated any federal or state rules, regulations, or laws.

**"Principals"** for the purposes of this certification means officers, directors, owners, partners, persons having primary management or supervisory responsibilities within a business entity; and, if a joint venture is involved, each joint venture member and the principals of each such member.

**15.21. Warranty of Title:** The Services are free and clear from all liens, contracts, chattel mortgages or other encumbrances; College Board has the lawful right to dispose of and sell the Services; and College Board shall warrant and defend its title against all claims.

**15.22. Continued Disclosure Requirement:** If at any time during the Term of the Agreement, College Board becomes aware of any change in the circumstances that makes the representations and warranties stated above no longer true, College Board must immediately disclose such change to the Board in accordance with the Notice provision of this Agreement.



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15.23. **Survival:** All warranties in this Section shall survive inspection, acceptance, payment, expiration, and termination of this Agreement. Nothing in the foregoing warranties shall be construed to limit any other rights or remedies available to the Board under the law and this Agreement.

16. **Independent Contractor:** It is understood and agreed that the relationship of College Board to the Board is and shall continue to be that of an independent contractor and neither College Board nor any of College Board's employees shall be entitled to receive Board employee benefits. College Board is the common law employer of the individuals who perform services for the Board. As an independent contractor, College Board is responsible for the payment of all taxes and withholdings specified by law which may be due in regard to compensation paid by the Board. To the extent that College Board is subject to taxes under Section 4980H of the Internal Revenue Code, College Board shall be solely responsible for paying such taxes. College Board agrees that College Board, including its employees, staff, and subcontractors shall not represent themselves as employees or agents of the Board. College Board shall provide the Board with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including but not limited to, a social security number or federal employer identification number.

17. **Indemnification:** College Board agrees to defend, indemnify, and hold harmless the Board, its members, employees, agents, officers and officials from and against liabilities, losses, penalties, damages, and expenses, including costs and attorney fees, arising out of all claims, liens, damages, obligations, actions, suits, judgments or settlements, or causes of action, of every kind, nature, and character (collectively "**Claims**") arising or alleged to arise out of the acts or omissions of the College Board, its officials, agents and employees and subcontractors in the performance of this Agreement. The foregoing obligation extends to and is intended to encompass any and all Claims that the Services infringe, misappropriate, or otherwise violate any confidentiality, proprietary or intellectual property rights of a third party.

Furthermore, in the event that the Board is determined to be liable for taxes under Section 4980H of the Internal Revenue Code as a result of its use of College Board's employees under this Agreement, College Board shall indemnify the Board for any such liability. And, in the event of unauthorized access, use, or disclosure of the Board's Confidential Information arising or alleged to arise from the acts or omissions of College Board, its employees, agents, or subcontractors.

College Board shall, at its own cost and expense, appear, defend and pay all attorney fees and other costs and expenses arising hereunder. In addition, if any judgment shall be rendered against the Board in any such action, the College Board shall, at its own expense, satisfy and discharge such obligation of the Board. The Board shall have the right, at its own expense, to participate in the defense of any suit, without relieving the College Board of any of its obligations hereunder. The Board retains final approval of any and all settlements or legal strategies which involve the interest of the Board.

However, if College Board, after receiving notice of any such proceeding, fails to immediately begin the defense of such claim or action, the Board may retain counsel and undertake the defense, compromise, or settlement of such claim or action at the expense of College Board, subject to the right of College Board to assume the defense of such claim or action at any time prior to settlement, compromise or final determination thereof. The cost and expense of counsel retained by the Board in these circumstances shall be borne by College Board and College Board shall be bound by, and shall pay the amount of, any settlement, compromise, final determination or judgment reached while the Board was represented by counsel retained by the Board pursuant to this paragraph, or while College Board was conducting the defense. Nothing contained herein suggests or will be inferred to suggest that College Board does not retain final approval of any and all settlement or legal strategies which involve the interest of College Board.

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To the extent permissible by law, College Board waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any losses, including any claim by any employee of College Board that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as *Kotecki v. Cyclops Welding Corp.*, 146 Ill.2d 155 (1991)). The Board, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, or any other statute or judicial decision.

The indemnities set forth herein shall survive the expiration or termination of this Agreement.

18. **Non-Liability of Board Officials:** College Board agrees that no Board member, employee, agent, officer or official shall be personally charged by College Board, its members if a joint venture, or any subcontractors with any liability or expense under the Agreement or be held personally liable under this Agreement to College Board, its members if a joint venture, or any subcontractors.

19. **Notices:** All notices, requests, consents, approvals, acknowledgements and waivers under this Agreement will be in writing and delivered to the applicable party, addressed to the designee for notification purposes set forth below:

To College Board, at:

The College Board  
250 Vesey Street  
New York, NY 10281  
Attn: Contracts Management

With a copy to:

The College Board  
250 Vesey Street  
New York, NY 10281  
Attn: Legal Department

and if to the Board, at:

Board of Education of City of Chicago  
ATTN: Chief Officer of Teaching & Learning  
42 W. Madison  
Chicago, IL 60602

with a copy to:

Board of Education of City of Chicago  
ATTN: General Counsel  
One North Dearborn, 9<sup>th</sup> Floor  
Chicago, IL 60602

Notice will be deemed given when verified by written receipt if sent by personal courier, overnight courier, or when received if sent by mail without verification of receipt. A party may change its address or designee for notification purposes by giving the other party written notice of the new address or designee and the date upon which it will become effective.

20. **Governing Law:** This Agreement shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois. College Board irrevocably submits itself to the

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original jurisdiction of those courts located in the County of Cook, State of Illinois, with regard to any controversy arising out, or relating to, or in any way concerning the execution or performance of this Agreement. College Board agrees that service of process on College Board may be made, at the option of the Board, by either registered or certified mail in accordance with the Notice Section of this Agreement by registered or certified mail addressed to the office actually maintained by College Board, or by personal delivery on any officer, director, or managing or general agent of College Board. If any action is brought by College Board against the Board concerning this Agreement, the action shall only be brought in those courts located within the County of Cook, State of Illinois.

21. **Binding Nature and Assignment:** This Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns, provided, however, that College Board may not assign this Agreement or any obligations imposed hereunder without the prior written consent of the Board, which consent shall not be unreasonably withheld.

22. **Insurance.** College Board, at College Board's own expense, shall procure and maintain insurance for all operations under this Agreement, whether performed by College Board or by subcontractors. All insurers shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or a comparable rating service. College Board shall submit to the Board satisfactory evidence of insurance coverage prior to commencement of Services. Minimum insurance requirements include the coverage set forth below and any additional coverage which may be specified by the Board:

22.1. **Workers' Compensation and Employers' Liability Insurance:** Workers' Compensation Insurance affording workers' compensation benefits for all employees as required by Illinois law and Employers' Liability Insurance covering all employees who are to provide Services under this Agreement with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence. The workers' compensation policy shall contain a waiver of subrogation clause.

22.2. **Commercial General Liability Insurance:** Commercial General Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate for bodily injury, personal injury and property damage liability. Coverage shall include, but not be limited to: all operations, contractual liability, independent contractors, products/completed operations (for a minimum of two (2) years following completion) and defense.

22.3. **Automobile Liability Insurance:** Automobile Liability Insurance when any motor vehicle (whether owned, non-owned or hired) is used in connection with Services to be performed, with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.

22.4. **Umbrella/Excess Liability Insurance:** Umbrella or Excess Liability Insurance with limits not less than Two Million Dollars (\$2,000,000) per occurrence, which will provide additional limits for employers' general and automobile liability insurance and shall cover the Board and its employees, subject to that of the primary coverage.

22.5. **Professional Liability / Errors and Omissions:** When any professionals perform Services in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions in conjunction with the professional services must be maintained with limits of not less than Two Million and 00/100 Dollars (\$2,000,000.00) each claim. Coverage must include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with or precede start of Services under this Agreement. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years following completion of professional services.

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**22.6. Cyber Liability/Privacy & Security:** College Board shall carry coverage for damages arising from a failure of computer security, or wrongful release of private information including expenses for notification as required by local, state or federal guidelines with limits of liability of at least Five Million Dollars (\$5,000,000.00) per claim and Five Million Dollars (\$5,000,000.00) in the aggregate. Coverage shall include failure to prevent transmission of malicious code. The policy will be a claims-made program with any prior acts exclusion predating both the Effective Date of this Agreement and any earlier commencement of Services. Such coverage shall either be maintained continuously for a period of two (2) years after expiration or termination of this Agreement or College Board must secure a two-year extended reporting provision.

**22.7. Additional Insured:** College Board shall have its General, Umbrella, Cyber, Professional and Automobile Liability Insurance policies endorsed to provide that "the Board of Education of the City of Chicago, a body politic and corporate, and its members, employees and agents, and any other entity as may be designated by the Board are named as additional insured on a primary basis without recourse or right of contribution from the Board".

The insurance company, or its representative, shall submit an insurance certificate evidencing all coverage as required hereunder and indicating the Additional Insured status as required above. The Board will not pay the College Board for any Services if satisfactory proof of insurance is not provided by College Board prior to the performance of any Services. The Certificate must provide thirty (30) days prior written notice of material change, cancellation, or non-renewal be given to:

Risk Management  
Board of Education of the City of Chicago  
42 W. Madison  
Chicago, IL 60602

Any failure of the Board to demand or receive proof of insurance coverage shall not constitute a waiver of College Board's obligation to obtain the required insurance. The receipt of any certificate does not constitute an agreement by the Board that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. College Board's failure to carry or document required insurance shall constitute a breach of College Board's agreement with the Board. In the event College Board fails to fulfill the insurance requirements of this Agreement, the Board reserves the right to stop the Services until proper evidence of insurance is provided, or this Agreement may be terminated.

Any deductibles or self-insured retentions on referenced insurance coverage must be borne by College Board. Any insurance or self-insurance programs maintained by the Board of Education do not contribute with insurance provided by College Board under the Agreement.

All subcontractors are subject to the same insurance requirements of College Board unless otherwise specified in this Agreement. College Board shall require any subcontractors under this Agreement to maintain comparable insurance naming College Board. College Board will maintain a file of subcontractor's insurance certificates evidencing compliance with these requirements.

The coverages and limits furnished by College Board in no way limit College Board's liabilities and responsibilities specified within the Agreement or by law. The required insurance is not limited by any limitations expressed in the indemnification language in this

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Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

College Board agrees that insurers waive their rights of subrogation against the Board.

College Board must register with the insurance certificate monitoring company designated by the Board stated below, and must maintain a current insurance certificate on file during the entire time of providing services to the Board. College Board must register and pay the initial annual monitoring fee to the insurance certificate monitoring company prior to performing services for the Board. The initial annual monitoring fee is currently Twelve Dollars (\$12.00) per year, but is subject to change.

Each year, College Board will be notified 30 to 45 days prior to the expiration date of their required insurance coverage (highlighted on their latest submitted insurance certificate on file) that they must submit an updated insurance certificate with the insurance certificate monitoring company. Insurance certificate submissions and related annual fees are required to be made online at the dedicated website established by the certificate monitoring company identified below. Questions on submissions and payment options should be directed to the certificate monitoring company.

**Certificate Monitoring Company:**

Topiary Communications, Inc.  
676 N. LaSalle – Suite 230  
Chicago, Illinois 60654  
Phone – (312) 494-5709  
Email – [dans@topiarycomm.net](mailto:dans@topiarycomm.net)

**Website for online registration, insurance certificate submissions and annual fee payments:** <http://www.cpsvendorcert.com>

23. **Audit and Document Retention:** College Board shall permit and cooperate in good faith in any audits by the Board, including its Department of Procurement, or its agents for compliance by the College Board with this Agreement. College Board shall furnish the Board with such information, supporting documentation and reports as may be requested relative to the progress, execution and costs of the Services and compliance with applicable MBE/WBE requirements. Failure of the College Board to comply in full and cooperate with the reasonable requests of the Board or its agents shall give the Board, in addition to all other rights and remedies hereunder, the right to charge the College Board for the cost of such audit. College Board shall maintain all records under this Agreement. As used in this Section, “records” shall include all correspondence, receipts, vouchers, memoranda, and other data, regardless of type or medium (including emails or other electronically stored data) relating to this Agreement and College Board’s performance of Services. All records referenced above shall be retained for five (5) years after the termination or expiration of this Agreement and shall be subject to inspection and audit by the Board. If any audit, litigation or other action involving the records is being conducted or has not been resolved, all applicable records must be retained until that proceeding is closed in accordance with applicable law and College Board’s policies regarding document retention. College Board shall require all of its subcontractors to maintain the above-described records and allow the Board the same right to inspect and audit said records as set forth herein.

24. **Minimum Wage:** College Board must comply with the City of Chicago Minimum Wage Ordinance (01-24), as may be amended, and the Board’s Minimum Wage Resolution (14-1217-RS2) and any applicable regulations issued by the Board’s CPO. The Board’s resolution adopts Chicago Mayoral Executive Order 2014-1. As of December 17, 2014 the minimum wage to be paid pursuant

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to the Resolution is \$13.00 per hour (the "Minimum Wage"). A copy of the Mayoral Order may be downloaded from the Chicago City Clerk's website at: <http://chicityclerk.com/wp-content/uploads/2014/09/Executive-Order-No.-2014-1.pdf>; the Board's Resolution may be downloaded from the Chicago Public School's website at: [http://www.cpsboe.org/content/actions/2014\\_12/14-1217-RS2.pdf](http://www.cpsboe.org/content/actions/2014_12/14-1217-RS2.pdf). In the event of any discrepancy between the summary below and the Resolution and Order, the Resolution and Order shall control.

College Board must: (i) pay its employees no less than the Minimum Wage for work performed under the Agreement; and (ii) require any subcontractors, sublicensees, or subtenants, to pay their employees no less than the Minimum Wage for work performed under the Agreement.

The Minimum Wage must be paid to: 1) All employees regularly performing work on property owned or controlled by the Board or at a Board jobsite and 2) All employees whose regular work entails performing a service for the Board under a Board contract.

Beginning on July 1, 2015, and every July 1 thereafter, the Minimum Wage shall increase in proportion to the increase, if any, in the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor, and shall remain in effect until any subsequent adjustment is made. On or before June 1, 2015, and on or before every June 1 thereafter, the City of Chicago may issue bulletins announcing adjustments to the Minimum Wage for the upcoming year.

The Minimum Wage is not required to be paid to employees whose work is performed in general support of College Board's operations, does not directly relate to the Services provided to the Board under the Agreement, and is included in the contract price as overhead, unless that employee's regularly assigned work location is on property owned or controlled by the Board. It is also not required to be paid by employers that are 501(c)(3) not-for-profits.

The term 'employee' as used herein does not include persons subject to subsection 4(a)(2), subsection 4(a)(3), subsection 4(d), subsection 4(e), or Section 6 of the Illinois Minimum Wage Law, 820 ILCS 105/1 et seq., in force as of the date of this Agreement or as amended. Nevertheless, the Minimum Wage is required to be paid to those workers described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Illinois Minimum Wage Law.

The Minimum Wage is not required to be paid to employees subject to a collective bargaining agreement that provides for different wages than those required by the Board's Resolution, if that collective bargaining agreement was in force prior to December 17, 2014 or if that collective bargaining agreement clearly and specifically waives the requirements of the Resolution.

If the payment of a prevailing wage is required and the prevailing wage is higher than the Minimum Wage, then College Board must pay the prevailing wage.

25. **M/WBE Program:** Intentionally Omitted.

26. **Right of Entry:** College Board and any of its officers, employees, subcontractors or agents, performing Services hereunder shall be permitted to enter upon Board property in connection with the performance of the Services hereunder, subject to the terms and conditions contained herein and those rules established by the Board and the subject school principal. College Board shall provide advance notice to the Board whenever applicable, of any such intended entry. Consent to enter upon a site given by the Board shall not create, nor be deemed to imply, the creation of any additional responsibilities on the part of the Board. College Board shall use, and shall cause each of its officers, employees and agents to use, the highest degree of care when entering upon any property owned by the Board in connection with the Services. Any and all claims, suits or judgments, costs, or

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expenses, including reasonable attorney fees, arising from, by reason of, or in connection with any such entries shall be treated in accordance with the applicable terms and conditions of this Agreement, including without limitation, the indemnification provisions contained in this Agreement.

27. **Non-Discrimination:** It shall be an unlawful employment practice for College Board or any of its subcontractors to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, or other terms, conditions, or privileges of employment, because of such individual's race, color, national origin, religion, sex, gender identity/expression, sexual orientation, age or disability; or to limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, national origin, religion, sex, gender identity/expression, sexual orientation, age, or disability. College Board shall particularly remain in compliance at all times with: the Civil Rights Act of 1964, 42 U.S.C.A. § 2000a, *et seq.*; the Age Discrimination in Employment Act, 29 U.S.C.A. § 621, *et seq.*; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. § 701, *et seq.*; the Americans with Disabilities Act, 42 U.S.C.A. § 12101, *et seq.*; the Individuals with Disabilities Education Act, 20 U.S.C.A. § 1400 *et seq.*; the Illinois Human Rights Act, 775 ILCS 5/1-101, *et seq.*; the Illinois School Code, 105 ILCS 5/1-1 *et seq.*; the Illinois Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.*; and the Chicago Human Rights Ordinance, ch. 2-160 of the Municipal Code of Chicago, all as may be amended, and all other applicable federal, state, county, and municipal statutes, regulations, ordinances and other laws. Nothing in this paragraph is intended nor shall be construed to create a private right of action against the Board or any of its employees. Furthermore, no part of this paragraph shall be construed to create contractual or other rights or expectations for the College Board's employees or the College Board's subcontractors' employees.

28. **Entire Agreement and Amendment:** This Agreement, including all exhibits attached to it and incorporated into it, constitutes the entire agreement of the parties with respect to the matters contained herein. All attached exhibits are incorporated into and made a part of this agreement. No modification of or amendment to this Agreement shall be effective unless such modification or amendment is in writing and signed by both parties hereto. Any prior agreements or representations, either written or oral, relating to the subject matter of this Agreement are of no force or effect. In the event of a conflict between the terms of this Agreement and any other documents, the terms of this Agreement shall supersede and prevail.

29. **Assignment:** This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that College Board may not assign this Agreement or any obligations imposed hereunder without the prior written consent of the Board.

30. **Board Not Subject to Taxes:** The federal excise tax does not apply to the Board, and the State of Illinois sales tax does not apply to the Board by virtue of Exemption No. E9997-7109-06. The amounts to be paid to College Board hereunder are inclusive of all other taxes that may be levied or based on this Agreement, including without limitation, sales, use, non-resident, value-added, excise, and similar taxes levied or imposed on the Services, but excluding taxes levied or imposed on the income or business privileges of College Board, which remain the responsibility of College Board.

31. **Freedom of Information Act:** College Board acknowledges that this Agreement and all documents submitted to the Board related to this contract award are a matter of public record and are subject to the Illinois Freedom of Information Act (5 ILCS 140/1) and any other comparable state and federal laws and that this Agreement is subject to reporting requirements under 105 ILCS 5/10-20.44. College Board further acknowledges that this Agreement shall be posted on the Board's website at [www.cps.edu](http://www.cps.edu).

This Agreement shall be posted on the CPS website.

32. **Continuing Obligation to Perform:** In the event of any dispute between College Board and Board, College Board shall expeditiously and diligently proceed with the performance of all its obligations under this Agreement with a reservation of all rights and remedies it may have under or pursuant to this Agreement at law or in equity.

33. **Transition Services:** Intentionally Omitted.

34. **Conflict of Interest:** This Agreement is not legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3, which restricts the employment of, or the letting of contracts to, former Board members within a one year period following expiration or other termination of their office.

35. **Indebtedness:** College Board agrees to comply with the Board's Indebtedness Policy adopted June 26, 1996 (96-0626-PO3), as amended from time to time, which policy is hereby incorporated by reference into and made a part of this Agreement as fully set forth herein.

36. **Ethics:** No officer, agent or employee of the Board is or shall be employed by College Board or has or shall have a financial interest, directly, or indirectly, in this Agreement or the compensation to be paid hereunder except as may be permitted in writing by the Board's Code of Ethics adopted May 25, 2011 (11-0525-PO2), as amended from time to time, which policy is hereby incorporated by reference into and made a part of this Agreement as fully set forth herein.

37. **Information Security Policy:** If at any time, College Board has access to the Board's computer network, College Board warrants that it is and shall remain in compliance with the Board's Information Security Policy, adopted September 25, 2013 (13-0925-PO1), as amended.

38. **Inspector General:** Each party to this Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Board of Education of the City of Chicago has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.

39. **Waiver:** No delay or omission by the Board to exercise any right hereunder shall be construed as a waiver of any such right and the Board reserves the right to exercise any such right from time to time as often and as may be deemed expedient.

40. **Survival/Severability:** All express representations or indemnifications made or given in this Agreement shall survive the completion of Services or the termination of this Agreement for any reason. If any provision or part of this Agreement is held to be unenforceable, the Agreement shall be considered divisible and such provision shall be deemed inoperative to the extent it is deemed unenforceable, and in all other respects the Agreement shall remain in full force and effect, provided, however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by applicable law.

41. **Joint and Several Liability:** In the event that College Board, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination thereof, then and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by College Board shall be the joint and several obligation or undertaking of each such individual or other legal entity.

42. **Counterparts and Facsimiles:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one instrument. A signature delivered by facsimile or electronic means shall be considered binding for both parties.



This Agreement shall be posted on the CPS website.

43. **Limitations of Liability:** Neither party shall be liable to the other party for incidental, special, punitive, consequential or indirect damages. The Board's aggregate liability to College Board under any theory or for any reason shall not exceed the amount paid or rightfully due to College Board as set forth in this Agreement as of the date of the claim.

To the extent permitted by law, the total liability, in the aggregate, of College Board, including those of its officers, trustees, partners, employees, agents, subcontractors and consultants, and any of them, to CPS and anyone claiming by, through or under CPS, for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to this Agreement or the work performed by College Board pursuant to this Agreement from any cause or causes, shall not exceed the two (2) times the Maximum Compensation Amount set forth in this Agreement, as may be amended. The aforesaid limitation of College Board's liability to the Board shall not apply to the following: (a) College Board's obligations set forth in the Confidential Information Section and in the Section addressing Uses of Student Data; (b) claims of College Board's infringement of third party intellectual property rights; (c) those instances where death, bodily injury or damages to tangible property are involved; (d) those instances of College Board's gross negligence or willful misconduct; and (e) College Board's obligations to pay any amounts due pursuant to the terms of this Agreement, including but not limited to any costs associated with maintaining insurance coverage required under the Agreement such as self-insured retention amounts, deductibles, or premiums. The Board's right to maximum recovery under the insurance coverage that may be available shall not be limited or otherwise impaired by the aforesaid limitations.

This Agreement shall be posted on the CPS website.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the latest date set forth below.

BOARD OF EDUCATION OF THE *Quin*  
CITY OF CHICAGO

By: *Frank M. Clark*  
Frank M. Clark  
President

Attest: *Susan J. Narrajos*  
Susan J. Narrajos  
Assistant Secretary

Date: 4/17/2018

COLLEGE ENTRANCE EXAMINATION  
BOARD, d/b/a THE COLLEGE BOARD

DocuSigned by:  
*Jeremy Singer*  
By: BE2EF27F2DE046D...  
Name: Jeremy Singer  
Title: COO

Board Report No: 17-0628-PR3, <sup>1</sup>17-0927-AR1-37  
17-1206-AR1-21

*Dr. Janice Jackson*  
Dr. Janice Jackson,  
Acting Chief Executive Officer

Approved as to legal form: *D. Henning*

*Douglas Henning*  
Douglas Henning  
Acting General Counsel

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**Attachments:**

- Exhibit A – Scope of Services
- Exhibit B – College Board Privacy Policies

**EXHIBIT A**

**SCOPE OF SERVICES**

**Name of Project:** Student Assessment Services: Advanced Placement Exams and SAT Suite of Assessments

**CPS Project Manager:** Peter Leonard **Phone:** 773-553-2416

**E-Mail:** [pileonard1@cps.edu](mailto:poleonard1@cps.edu)

**Consultant's Project Manager:** Jennifer McDonnell **Phone:** 847/653-4519

**E-Mail:** [jmcdonnell@collegeboard.org](mailto:jmcdonnell@collegeboard.org)

**Term:** July 1, 2017 - June 30, 2020

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This Scope of Services will be conducted pursuant to the terms and conditions of the Agreement for Student Assessments and Related Services ("Agreement") by and between College Entrance Examination Board, d/b/a The College Board ("**Consultant**") and The Board of Education of the City of Chicago (the "**Board**"), commonly known as the Chicago Public Schools ("**CPS**"). Defined terms used in this Scope of Services will have the same meanings as those ascribed to such terms in the Agreement.

**1. SCOPE OF SERVICES:**

Consultant will provide the following services ("**Services**") and materials ("**Materials**") to the Board's schools and the Board's Office of Magnet, Gifted and IB Programs and Department of Student Assessment: (A) Advanced Placement ("AP") student examinations, grading and reporting of assessment; (B) AP Instructional Materials; (C) SAT, PSAT/NMSQT, PSAT 10 and PSAT 8/9 exams and materials; (D) AP Professional Development; (E) SAT Suite of Assessments Professional Development; (F) SAT Suite of Assessments Data Matching & Score Verification; and (G) College Board Research Services.

**A. AP Exams:** Consultant shall provide and deliver to individual CPS high schools the number of AP exams ordered by each school for the May 2018, 2019, and 2020 exams. Orders will be delivered in accordance to timeline outlined in the AP coordinator's manual. However, Consultant shall deliver the exams to each CPS high school that placed any such order no later than May 1 of each contract year. Shipping and handling will be included in the price of the exams. The Consultant shall provide approximately 30,000 – 35,000 exams. Consultant shall provide each school's AP coordinator, AP teachers, and designated school administrator access to the AP Online Score Reports website by the first week of August in each contract year. Consultant will provide each student with his/her score results for all AP exams taken in electronic form no later than July 20<sup>th</sup> of each contract year. Consultant will provide CPS district representative(s) the following data, plus any new data pieces added to the AP Online Score Report:

- District Summary by School
- District Summary by Student Demographics
- District Summary with Comparable Groups
- School Summary by Student Demographics
- School Summary with Comparable Groups
- Current Year Score Summary - Aggregated for Districts
- Current Year Score Summary
- Five-Year School Score Summary
- AP Equity and Excellence
- School Scholar Roster
- District Score Roster
- School Score Roster

**This Agreement will be posted on the CPS website**

- Subject Score Roster - Aggregated for Districts
- Subject Score Roster
- AP Instructional Planning Report - Aggregated for Districts
- AP Instructional Planning Report
- AP Instructional Planning Report - By Section
- College and University Totals - Aggregated for Districts
- College and University Totals
- Student Data file

Any additional fees for AP exam scoring, processing, or unused exams will be charged to the individual school(s) in accordance to the list of fees detailed in the Budget/Payment/Pricing Section below.

Consultant will make the aforementioned AP participation and performance data available for CPS high school students enrolled in schools participating under this Agreement through AP Online Score Reports. If CPS requests data for non-public school students, the CPS must also submit a letter from the non-public school, stating its approval and authorization to the Consultant to release the data to the CPS.

CPS may provide the AP Online Score Reports to the state or federal agency that has funded any of exams furnished under this Agreement. CPS is prohibited from using the AP Online Score Reports and any data within the reports for any other purpose without the express written consent of the College Board.

Notwithstanding any provision to the contrary and in accordance with the terms of the Agreement, particularly those regarding College Board's intellectual property, CPS acknowledges and agrees that the AP Online Score Reports, AP examination, and all items (questions) contained therein, including all copies thereof, all examination materials, at all times are owned exclusively by the Consultant, who is the exclusive owner of all rights therein, in and to the AP examination, including, without limitation, all copyrights, trademarks, trade secrets, patents, and other similar proprietary rights, and all renewals and extensions thereof. Nothing in this Agreement should be interpreted to indicate that the Consultant is passing its proprietary rights in and to the AP examination to the CPS except for the license that has been granted. The parties acknowledge and agree that Consultant may use the AP exam in accordance with its normal course of business without separate or prior permission from CPS. Consultant shall protect the AP scores in a secure manner in accordance with this Agreement.

**B. AP Instructional Materials:** Consultant will provide individual schools with reference materials, teacher guides, curriculum modules, vertical team guides, and science lab materials, or other materials that said school has ordered. Schools will order materials throughout the school year. Consultant will invoice the individual school for instructional materials and said school will pay directly to the Consultant. Materials ordered by the Office of Magnet, Gifted, AP and IB Programs will be paid for by the Office of Magnet, Gifted, AP and IB Programs upon receipt of invoice from the Consultant.

**C. SAT, PSAT/NMSQT, PSAT 10 and PSAT 8/9 exams and materials:** Consultant shall provide and deliver to individual CPS high schools the number of SAT, PSAT/NMSQT, PSAT 10 and/or PSAT 8/9 exams ordered by each school. Pre-ID student answer sheet labels will be provided for fall PSAT 8/9 and PSAT/NMSQT and spring PSAT 8/9, PSAT 10, and SAT testing, as requested. Orders will be delivered in accordance to timeline outlined at <https://collegereadiness.collegeboard.org/important-dates>. However, Consultant shall deliver the exams to each CPS high school that placed any such order no later than the date provided for the applicable exam as may be found at: <https://collegereadiness.collegeboard.org/important-dates>. Shipping and handling will be included in the price of the exams Consultant shall provide each school's designated coordinators, teachers, students and school administrator access to the College Board's Online Score Reports website by the date provided for the applicable exam as may be

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found at <https://collegereadiness.collegeboard.org/important-dates>. Consultant will provide each student with his/her SAT, PSAT/NMSQT, PSAT 8/9 or PSAT 10 score results in electronic form no later than the date provided for the applicable exam as may be found at: <https://collegereadiness.collegeboard.org/important-dates>. Provider will ship the PSAT/NMSQT, PSAT 10, and SAT, as applicable, Official Student Guide to schools provided that CPS schools have ordered by the applicable shipping date which may be found at <https://collegereadiness.collegeboard.org/important-dates>. Consultant will provide CPS district representative(s), the following, plus any new data pieces added to the Online Score Report:

- **School and Student Deliverables:**
  - PSAT 8/9, PSAT/NMSQT, PSAT 10 and SAT test materials (test booklets for PSAT 8/9, PSAT/NMSQT, PSAT 10 and SAT ; and student guides for PSAT/NMSQT, PSAT 10, and SAT)
  - Student Paper Score Report for PSAT 8/9, PSAT/NMSQT, and PSAT 10 (one copy sent to school)
  - Student Online Score Report, delivered via the College Board website, with linkages to, Khan Academy, a third-party website with which Consultant has established an exclusive relationship in order for students to upload their test results and receive free personalized unique study plans based on their performance, to the extent a student chooses to use these resources; students 13 and older can link their College Board and Khan Academy accounts to receive free personalized practice recommendations based on their performance ("Khan Academy")
  - School online access to individual student score reports and aggregate score reports, and downloadable student data file, delivered via the College Board website. Schools must return answer sheets as soon as possible after testing to receive all reports on the data portal.
  - School online access to Consultant's AP Potential™ website (for students in 9<sup>th</sup> grade or above)
  - The Official Educator Guide
- **CPS Deliverables:**
  - CPS online access via a district wide license to individual student score reports and aggregate score reports, and downloadable student data file
  - CPS online access via a district wide license to AP Potential website
  - CPS student-level accountability file for any district-required testing windows delivered within 75 days after the last day of testing

Consultant will make the aforementioned participation and performance data available for CPS high school students enrolled in schools participating under this Agreement through Online Score Reports website. If CPS requests data for non-public school students, the CPS must also submit a letter from the non-public school, stating its approval and authorization to the Consultant to release the data to the CPS.

CPS may provide the Online Score Reports to the state or federal agency that has funded any of exams furnished under this Agreement. CPS is prohibited from using the Online Score Reports and any data within the reports for any other purpose without the express written consent of the College Board. The schools shall promptly return all test materials, including test booklets, when required by the consultant. CPS and the schools are prohibited from copying, disseminating, publishing, displaying or distributing in any form, or reproducing the PSAT 8/9, PSAT/NMSQT, PSAT 10, or SAT booklets in whole or in part, without the prior written consent of the College Board.

**This Agreement will be posted on the CPS website**

Notwithstanding any provision to the contrary and in accordance with the terms of the Agreement, particularly those regarding College Board's intellectual property, CPS acknowledges and agrees that the Online Score Reports, PSAT 8/9, PSAT/NMSQT, PSAT 10 and SAT examinations, and all items (questions) contained therein (collectively "PSAT IP"), including all copies thereof, all examination materials, at all times are owned exclusively by the Consultant, who is the exclusive owner of all rights therein, in and to the AP examination, including, without limitation, all copyrights, trademarks, trade secrets, patents, and other similar proprietary rights, and all renewals and extensions thereof. Nothing in this Agreement should be interpreted to indicate that the Consultant is passing its proprietary rights in and to the PSAT 10 and PSAT 8/9 examinations to the CPS except for the license that has been granted. The parties acknowledge and agree that Consultant may use the PSAT IP in accordance with its normal course of business without separate or prior permission from CPS. Consultant shall protect the PSAT and SAT scores in a secure manner in accordance with this Agreement.

**D. AP Professional Development:** Consultant shall provide professional development (PD) for teachers and counselors, AP coordinators, and school administrators. Consultant shall provide a maximum of 12 full-day (6.5 hours) sessions throughout the Term. PD topics will be agreed upon by the individual school or Office of Magnet, Gifted, AP and IB Programs and the Consultant. All PD sessions will not exceed 30 participants per session. PD sessions will take place in CPS occupied buildings. These sessions could include PD requests by individual schools, paid for by the school or PD sessions requested by the Office of Magnet, Gifted, AP and IB Programs and paid for by the Office of Magnet, Gifted, AP and IB Programs in accordance with the costs set forth in the Budget/Pricing/Payment Section of this Scope. Consultant shall provide a College Board endorsed instructor to lead each PD. Consultant shall provide one set of materials per registered attendee per PD session. The list of materials for each session / workshop will be agreed upon by the Consultant and Office of Magnet, Gifted and IB Programs prior to the PD session.

**E. SAT Suite of Assessments Professional Development:** Consultant shall provide professional development (PD) for teachers, counselors, test coordinators, and school administrators to support with the implementation of the SAT Suite of Assessments at no cost to CPS. Consultant commits to providing at minimum 24 three-hour workshops each academic year for the duration of the contract. PD topics will be agreed upon by the Department of Student Assessment and the Consultant. Topics may include test administration policy and logistics, Official SAT Practice in Khan Academy, and College Board counselor needs, among others. Before any costs may be charged to CPS for these services, an amendment to this Scope and the Agreement may be necessary.

**F. SAT Suite of Assessments Data Matching & Score Verification:** As part of the Services provided in exchange for the cost of assessments, Consultant shall provide data matching and score verification services to ensure that scores in the SAT suite of assessments are matched to the correct testing students.

**G. College Board Research Services:** Consultant shall provide ongoing research support as may be requested by CPS. Research may include (among other things) questions regarding topics like national norms (growth and attainment); demographic trends; suitability of national data for conclusions about CPS's student population; how to interpret scores, etc. These research touchpoints would occur on an as-needed basis, depending on the questions that surface from discussions between CPS and stakeholders throughout the duration of the Agreement. Any research and any data, reports, or other materials generated from the research shall be considered CPS Data and shall be handled in accordance with the terms of the Agreement.

**BUDGET/ PRICING/PAYMENT:**

Consultant shall be paid upon receipt of an invoice for Services rendered and/or Materials ordered and delivered. Consultant shall submit monthly invoices to the individual CPS school(s) for the Services rendered and/or Materials delivered to that school for the preceding month. If

**This Agreement will be posted on the CPS website**

Services and/or Materials are not rendered in a given month then the Consultant shall not submit an invoice for that month. Consultant shall submit monthly invoices to the CPS Project Manager for Services rendered and/or Materials ordered by and delivered to the Office of Magnet, Gifted, AP and IB Programs or the Department of Student Assessment. The total maximum compensation payable to Consultant through the Term of the Agreement shall not exceed **Eight Million Three Hundred Fifty Thousand and 00/100 Dollars (\$8,350,000.00).**

**This Agreement will be posted on the CPS website**

Program	Milestone/Task/Deliverable Description	Delivery/Performance Date(s)	Cost										
Advanced Placement (AP)	AP Exams Administration (not low-income)	According to College Board School Year Administration Calendar	\$142 per student for AP Research and AP Seminar exams  \$94 per student for all other AP exams										
Advanced Placement (AP)	AP Exams Administration (low income)	According to College Board School Year Administration Calendar	\$53 per student \$15 per student (if status quo remains for DOE and IL)										
Advanced Placement (AP)	Professional Development AP IL Grant Workshops AP Capstone Summer PD AP Redesign Course Workshops	Dates determined by participating schools	<table><tr><td>1-day</td><td>\$4,500</td></tr><tr><td>2-day</td><td>\$7,875</td></tr><tr><td>3-day</td><td>\$11,250</td></tr><tr><td>4-day</td><td>\$13,200</td></tr><tr><td>5-day</td><td>\$16,000</td></tr></table>	1-day	\$4,500	2-day	\$7,875	3-day	\$11,250	4-day	\$13,200	5-day	\$16,000
1-day	\$4,500												
2-day	\$7,875												
3-day	\$11,250												
4-day	\$13,200												
5-day	\$16,000												
Advanced Placement (AP)	Instructional Materials <ul style="list-style-type: none"><li>AP Insight</li><li>AP Mentoring</li></ul>	Optional AP Services											
SAT Suite of Assessments	Fall PSAT Administration <ul style="list-style-type: none"><li>PSAT8/9</li><li>PSAT/NMSQT</li></ul>	PSAT 8/9: According to school-selected dates  PSAT/NMSQT: According to College Board Yearly Calendar	PSAT8/9: \$9 per test  PSAT/NMSQT: \$14.40 per test (fee waivers cover qualifying 11 <sup>th</sup> graders)										
SAT Suite of Assessments	Fall SAT School day Administration	College Board SAT School Day dates	SAT without essay: \$8 per test SAT with essay: \$15 per test										
SAT Suite of Assessments	Spring PSAT Administration <ul style="list-style-type: none"><li>PSAT 8/9</li><li>PSAT 10</li></ul>	According to CPS-selected Administration Dates by Year	PSAT 8/9: \$5 per test  PSAT 10: \$10 per test										
	<b>Total Not to Exceed</b>		<b>\$8,350,000.00</b>										

3. **OUTCOMES:** Consultant's Services may contribute to: 1) teachers with appropriate AP content knowledge, teaching methodology and strategies through professional development to increase student access in AP courses; 2) an increase in the number of low-income students who take a rigorous college preparatory course such as AP; 3) an increase in the number of students who earn a "qualifying" score on AP exams; 4) an increase in the of low-income students who take a pre-college entrance exam in preparation for the SAT; and 5) an increase in the number of students who meet the grade-level and College and Career Readiness Benchmarks in the SAT Suite of Assessments.



**Exhibit B**

**to Agreement for Student Assessments and Related Services  
between Board of Education of City of Chicago  
and College Entrance Examination**

**College Board Privacy Policies**

<https://www.collegeboard.org/privacy-policy>

beginning of content:

## Our Commitment to Your Privacy

***The information on this site will be updated as necessary. It was most recently updated Jan. 15, 2016.***

The College Board respects your privacy, and we are committed to protecting it. We have created this page so that you can easily access our policies about the different ways in which your personal information might be used, and the options you have to control it.

**Data Privacy Overview | Privacy Statement | Program-Specific Privacy Policies**

### Data Privacy Overview

We have designed a set of privacy principles, which govern how we use your personal information. The College Board gives students the opportunity to choose what personal information they provide to us and how we may share that information.

1. The College Board collects personal information only to administer tests and deliver educational opportunities to students.
2. The College Board gives students and families complete discretion as to how much additional information they disclose, beyond the minimum information needed to connect students with college success, including registering for the SAT or saving college lists.
  - During the registration process, we ask students for: name, address, date of birth, gender, Social Security Number or student ID, and address. We may also ask for phone numbers and email addresses, school name, grade level or expected graduation date, ethnicity, and a parent's name, email address, and education level.
  - Sometimes, schools will provide us with student personal information to register the students for College Board tests. Schools may share student name, address, date of birth, and gender, and in certain circumstances information about students to help the College Board determine if they qualify for fee waivers. Students provide any remaining personal information themselves.
  - For students who use our financial aid application services, including CSS/Financial Aid PROFILE, we collect family and student financial information only for the purpose of aiding the institution in processing the students' aid application.

3. We ask students for personal information to help them make choices about their future.
  - To help students receive the most relevant and accurate information about their college options and scholarship opportunities through Student Search Service®, we also ask optional questions about academic and extracurricular interests, career and field of study interests, family income, and religious preferences. Students must opt in to participate in this service; the College Board does not include students without their consent. Students may also opt out at any time.
  - We always encourage parents and guardians to get involved in their child's educational choices, so we offer a service, called "CC: a Parent," which allows the parents or guardians to receive copies of emails that their child requests to receive. If students provide a parent's name and email address, that parent will receive an email from the College Board asking if they want to receive copies of the emails that their students will receive.
4. We will not ask students to send credit card, bank, or password information over the phone or by email.
5. We do not send students text messages or emails or call them on the phone unless they specifically opt in to the communication.
6. We only share student information for educational purposes.\*
  - We report scores to students and their schools, districts, and states to help measure educational progress and support a student's path to college.
  - If students request it, we use information to send customized college planning information.
  - We use student information to provide SAT, AP, and college application fee waivers for income-eligible students.
  - We share a limited amount of personal data with our partners — and only that data needed for the sole purpose of administering testing services, and producing and generating student score reports.
  - On our website, we use student information to customize and personalize the content users see, such as important reminders about SAT test dates and college-planning milestones.
  - We share de-identified student information with researchers to conduct statistical studies and analyses related to College Board programs and services that address critical issues in education and contribute to viable solutions.
7. The College Board does not sell student information. Students can voluntarily opt in to our Student Search Service. Qualified colleges, universities, nonprofit scholarship services, and educational organizations pay a license fee to use this information to recruit students and manage enrollment in connection with educational or scholarship programs.
  - If a student chooses to participate in our Student Search Service, the student agrees to share their name, address, and responses to the Student Data Questionnaire with colleges, universities, and scholarship programs. This information will be used for

recruitment, scholarship opportunities, and college planning outreach.

- These organizations must sign a license agreement, which outlines the specific terms for which the student information can be used before it must be destroyed.
- Under no circumstances are these organizations allowed to give the student information to other organizations.
- The College Board consistently monitors the use of student information by licensed organizations for compliance.
- Students can opt out of Student Search Service at any time.
- More information about [Student Search Service](#).

\* Or if ordered to by a court.

[Back to top](#)

## Privacy Statement

The College Board is a not-for-profit membership association whose mission is to connect students to college success and opportunity. We recognize the importance of protecting the privacy rights of our users and the following policy outlines our collection and use of the information that you provide to us while using our site.

If you have an unresolved privacy or data use concern that we have not addressed satisfactorily, please contact our U.S.-based third party dispute resolution provider (free of charge) at [\[Opens in New Window\]https://feedback-form.truste.com/watchdog/request](https://feedback-form.truste.com/watchdog/request).

**Within this privacy statement, you will find:**

- [Personal Information Collected](#)
- [Children Under 13 Years of Age](#)
- [Educator Section](#)
- [How We Use Your Information and Disclose It to Third Parties](#)
- [Communications from the College Board and Opt-In Choices](#)
- [Communications from Organizations Participating in Student Search Service](#)
- [Tracking Technologies and Use of Cookies](#)
- [Third-Party Links](#)
- [Adobe Device Co-op](#)
- [International Users and Transfers of Data and Information](#)
- [Changes to Our Policy](#)
- [Terms and Conditions](#)

### Personal Information Collected

Users do not need to create an online account to view most of our website; however, to register for exams or use certain tools on our site, an account is necessary.

**Student account creation:** When students create an online account, we collect the following personally identifiable information: first name, middle initial, last name, zip code, gender, date of birth, date of high school graduation, email address, username, and password. In addition, users can supply a parent or guardian's first and last name, and email address to activate the CC a Parent service.

**Exam registration:** In general, the College Board collects student name (first, middle, last), mailing address or zip code, date of birth, email address, and sex. For certain tests, the College Board may also collect student phone number (ACCUPLACER, AP, SAT), student ID or SSN (ACCUPLACER, AP, PSAT/NMSQT, and SAT), date of high school graduation (CLEP and SAT), and certain demographic information, such as race, ethnicity, religion, and/or parental education (ACCUPLACER, AP, PSAT/NMSQT, and SAT). To process your registration payment, credit card information will also be collected. *To read the privacy statements and testing policies associated with a specific exam, please see [Program-Specific Privacy Policies](#).*

**Student Search Service:** Student Search Service is a free service that provides students with information about college planning, as well as admission and scholarship information, from the more than 1,100 participating colleges, universities, and scholarship programs. If students choose to participate in this service, they agree to share information about themselves to participating colleges, universities, scholarship programs, and educational organizations, to be used only for recruitment, scholarship opportunities, and college planning outreach. These organizations must sign a license agreement which outlines the specific terms for which the student information can be used before it must be destroyed. Under no circumstances are these organizations allowed to give the student information to other organizations. Refer to the [Student Search Service](#) if you have questions or want more information about the program, or call 866-825-8051.

**Pay for College:** In the Pay for College section in BigFuture™, we offer a variety of tools and services that provide access to current information about college costs, scholarships, financial aid applications, and college financing. When students complete the CSS/Financial Aid PROFILE application, we collect the following information: first and last name, address, telephone number, date of birth, gender, anticipated graduation date, family financial information (such as income, assets and tax information) and social security number (optional). This information is used for the sole purpose of processing the CSS/Financial Aid PROFILE application, on behalf of the college or institution to which the student is applying.

**CC a Parent Service:** We encourage parents/guardians to get involved in their child's educational choices by offering this service, which allows the parent/guardian to receive copies of the important emails that we send to students. We collect the parent/guardian's first and last name as well as email address. This service generally includes email reminders about upcoming dates and deadlines; SAT registration receipts, notifications, and admission tickets for test day; test center alerts; and score announcements. To protect the security of your College Board website account, we do not send copies of username or password reminders to parents or guardians.

## **Children Under 13 Years of Age**

We do not knowingly collect personally identifiable information online from children under the age of 13. If a child provides us with this type of information online, please [email us to have the account deactivated](#) or call 866-756-7346.

## **Educator Section**

Users do not need an online account to view most of the website; however, accounts are required to perform certain tasks or save personalized information. For example: ordering AP or PSAT/NMSQT exam materials, registering for workshops, and requesting additional fee waivers.

**Educator account creation:** We collect the following personally identifiable information from users who wish to create an online account: first name, middle initial, and last name, name suffix, gender, job title, school affiliation, username, password, email address, and birth month and day.

**Test Coordinator account creation:** Establishing yourself as a test coordinator for your designated school allows you the benefit of ordering testing materials online. When creating an online account, we collect first and last name, email address, phone number, and an alternate contact name from the school. We use the alternate contact name in case there are questions regarding an order. In addition, test coordinators may also provide information, such as: name, work phone, fax number, and email address, which can be displayed on the public Web page for the school's testing center.

**Online event registration:** If you register for a workshop, meeting, or conference through the site, we'll capture credit card information, the type of services or products ordered or purchased, and the date of the order or purchase.

## **How We Use Your Information and Disclose It to Third Parties**

- The College Board uses your information consistent with its mission and in connection with the services associated with administering its tests. These uses include: sharing information with our operational partners for the sole purpose of administering testing services, and producing and generating student score reports; sharing scores with high schools, colleges, and governmental departments of education for reporting purposes; and sharing information with research partners conducting research on behalf of the College Board.
- To invite you to participate in surveys and focus group.
- To verify user identity during customer service calls.
- To customize and/or personalize your website experience, including: pre-filling an exam registration with stored personally identifiable information; fulfilling online purchase requests or other transactions performed on the site(s), including sharing relevant personally identifying information with a College Board vendor so the vendor can complete purchases or transactions.
- We use outside companies to process credit cards and to ship free or purchased goods. These companies do not retain, share, store, or use personally identifiable information for any other purpose.
- In addition, we use an outside company to send email communications to our users. This company does retain and store personally identifiable information for the sole purpose of processing the email communications. They do not share, sell, or rent this information for any other purpose. Information shared with our email service provider includes: first and last name, address, date of birth, landline and/or mobile phone number, and email address.
- In support of operating, hosting, and enhancing our website(s), personally identifiable information may be accessed by contractors who assist with programming and technical aspects of website operation. All contractors adhere to the College Board's confidentiality and privacy conditions.
- We may also include de-identified and/or aggregate information that users provide to conduct research and to use to identify, develop, and offer products and services that help in the transition from high school to college.

## **Communications from the College Board and Opt-In Choices**

We communicate electronically with our users through two types of emails: system-generated emails and optional commercial emails.

- System-generated emails are a direct response to a user's action on our site, for example, confirmation of an online store purchase, an SAT admission ticket, and username and password reminders.
- Optional commercial emails are sent to inform users about College Board products, services, newsletters, alerts, and surveys. Users may opt in to receive these emails and can change their email preferences at any time. For example, if you no longer wish to receive commercial emails, you can easily unsubscribe in one of the following ways:
  - Click the unsubscribe link at the bottom of the College Board email.
  - Manage your email subscriptions through your College Board account.
  - Call Customer Service at 866-756-7346.
  - Write to: The College Board, 250 Vesey Street, New York, NY 10281  
Attention: User Account Manager.
- The College Board may also offer some users the option of receiving texts or SMS messages to a mobile phone. Users must opt in to receive text communications and can always unsubscribe or STOP receiving text communications.

## **Communications from Organizations Participating in Student Search Service®**

When students receive communications from organizations that participate in Student Search Service, these organizations are required to maintain strict confidentiality. The frequency and mode of communication is determined by the organization that receives the student's contact information. Every communication from these organizations is required to contain specific instructions on how to unsubscribe from that particular institution. To unsubscribe from the entire Student Search Service program, call 800-626-9795 or write to: The College Board, 11955 Democracy Drive, Reston, VA 20190, Attention: Student Search Service.

## **Tracking Technologies and Use of Cookies**

We use cookies to remember your settings. This facilitates more efficient browsing on subsequent visits by using your preferences to customize the content and/or layout of our site(s). You can control the use of cookies at the individual browser level. If you turn off your cookie settings, you may still use our site, but your ability to use some features or areas of our site may be limited.

Cookies and other technologies such as: beacons, tags, and scripts are used by the College Board and our third-party affiliates, or analytics or service providers in analyzing trends, administering the site, tracking users' movements around the site, and to gather demographic information about our user base as a whole.

## **Third-Party Links**

In an attempt to provide you with increased value, we may include third-party links on our site. These linked sites have separate and independent privacy policies. We therefore have no responsibility or liability for the content and activities of these linked sites. Nonetheless, we seek to protect the integrity of our site and welcome any feedback about these linked sites (including if a specific link does not work).

## **Adobe Device Co-op**

The College Board participates in the Adobe Marketing Cloud Device Co-op both to better understand how you use our website across various devices and to potentially deliver you tailored promotions. [\[Opens in New Window\]Learn more](#) about how Adobe does this or [\[Opens in New Window\]manage your privacy](#).

## **International Users and Transfers of Data and Information**

The College Board, its website, and its website servers are located and operated in the United States. Therefore, your information will be transferred from your location to the United States, which may not provide the same level of protection for your personally identifiable information as your home country. The information may be available to the United States government or its agencies under a lawful order in the United States. When you furnish information to the College Board through this website for any reason, including for any of the services we offer, you are consenting to a cross-border transfer of that information to the United States. If you do not agree to this international transfer of data, then you should refrain from using the website and the services it offers. If you choose to revoke your consent to such transfer, we may cease processing your information, which depending on the service you are using the website for, may impact your ability to apply for or be accepted to a U.S. college or university.

## **Changes to Our Policy**

If we decide to change our privacy policy, we will post those changes on this page. Policy changes will apply only to information collected after the date of the change.

## **Terms and Conditions**

Please also visit our [\[Opens in New Window\]terms and conditions](#) section establishing the use, disclaimers, and limitations of liability governing the use of our website.

[Back to top](#)

## **Program-Specific Privacy Policies**

Additional program-specific, policy-related information appears in the links directly below:

- [\[Opens in New Window\]AP \(.pdf/2.3MB\)](#) see pg. 2
- [\[Opens in New Window\]PSAT/NMSQT \(.pdf/1.45MB\)](#) see pg. 4
- [\[Opens in New Window\]SAT \(.pdf/826KB\)](#) see pg. 48
- [\[Opens in New Window\]SpringBoard Online](#)
- [\[Opens in New Window\]ACCUPLACER \(.pdf/273KB\)](#)
- [\[Opens in New Window\]CLEP](#)
- [\[Opens in New Window\]AP Insight](#)

[Back to top](#)



