

Between: **Focus School Software, LLC**
475 Central Ave.
St. Petersburg, Florida ("**Focus**")

And: **Pembroke Pines Charter Schools**
601 City Center Way, Pembroke Pines, FL 30025 ("**Licensee**")

This Focus Master License Agreement PPCSD-001 ("Agreement") governs the licensing of proprietary computer programs and corresponding documentation (collectively the "Product") as provided by **Focus** to Licensee. The licensing of a given Product is subject to the terms of a Product Schedule executed by the parties hereto, which is incorporated into this Agreement by reference and which defines the corresponding license type, term, fees, and any relevant limitations to such license ("Product Schedule"). This Agreement does not by itself commit Licensee to license any Product. Rather, this Agreement merely sets forth the terms and conditions that will govern the licensing of Products to Licensee as a result of the execution of a Product Schedule by **Focus** and Licensee. The entity that executes a Product Schedule with **Focus** shall be considered the "Licensee" for all purposes of the Product Schedule; and the Product Schedule shall be considered a two-party agreement between **Focus** and such entity. When referring to either **Focus** or Licensee, the term, "Party" may be used; "Parties" when referring to both.

1. **LICENSE:** **Focus** grants Licensee a non-exclusive, non-transferable, non-sublicense-able, worldwide license to use a given Product in accordance with this Agreement and any additional terms contained in a Product Schedule as follows:
 - a. **LIMITATIONS ON USE:** The Product shall be used only as specified in the Product Schedule and, except as set forth in such Product Schedule, only for Licensee's operations for the processing of its own data.
 - b. **LIMITATIONS ON ASSIGNMENT:** Licensee may not assign this Agreement or any of its rights or interests hereunder to any party, except as expressly provided herein. With prior written approval from **Focus**, which shall not be unreasonably withheld, Licensee may assign this Agreement or any of its rights or interests hereunder, or delegate any of its obligations hereunder, to (i) Licensee's successor pursuant to a merger, reorganization, consolidation, or sale; or (ii) an entity that acquires all or substantially all of that portion of Licensee's assets or business for which the **Focus** Product is being used. **Focus** may assign this Agreement to an affiliated entity arising through creation of a subsidiary, change in corporate form, merger with another entity, or acquisition by a third party of the stock or substantially all of the assets of **Focus**, provided that such successor in interest shall be bound by all of the rights and obligations hereunder. Any attempted assignment or delegation in contravention of this Section shall be null and void, and of no force or effect. This Agreement shall be binding upon, and shall inure to the benefit of, the legal successors and permitted assigns of the Parties.
 - c. **REBRANDING PROHIBITED:** Unless otherwise specified in the corresponding Product Schedule, Licensee may not re-brand or otherwise remove **Focus** logos, copyright notices, or other identifying materials from a given Product.
 - d. **THIRD PARTY LICENSES:** Licensee acknowledges that a given Product may contain code libraries or controls created by third parties and licensed by **Focus**.
 - e. **FORMAT AND DISTRIBUTION:** Unless otherwise specified in the corresponding Product Schedule, a given Product will only be supplied in machine-readable object code and hosted by **Focus**.
 - f. **DOCUMENTATION:** **Focus** will provide Licensee with the Product documentation according to the applicable Product Schedule through electronic download, unless otherwise requested by Licensee. Licensee may use the documentation as is reasonably necessary for use(s) permitted by Licensee's license for the Product without additional charge.

- g. **INSTALLATION TRANSFERS.** If a License is subject to restrictions on the number or locations of the computer on which the Product may be installed, Licensee is entitled at no additional charge and with prior approval from **Focus** to transfer the Product (subject to such use restrictions): (i) from one computer to another or (ii) from one installation site to another.
2. **TITLE AND PROPRIETARY RIGHTS:** Licensee acknowledges that a given Product constitutes the trade secret and proprietary information of **Focus** and title to such Product shall at all times remain with **Focus**. **Focus** or its successor shall retain the title and full ownership rights to the Product. Licensee shall take no action that infringes upon the ownership, copyright, trademark, and patent rights of **Focus**.
3. **CONFIDENTIALITY:** Licensee agrees that a given Product received shall be treated as the confidential property of **Focus**, and Licensee shall not disclose or otherwise distribute such Product to anyone other than Licensee's authorized employees. Licensee shall not permit anyone except its authorized employees to have access to such Product. Except for archival purposes, Licensee shall not make or allow others to make copies or reproduce any part of such Product in any form without the prior written consent of **Focus**. Licensee shall not remove or destroy any proprietary markings of **Focus**. Under no circumstance shall Licensee reverse compile, reverse assemble or otherwise reverse engineer such Product. The obligations of this Section shall survive the termination of this Agreement or any provision thereof.
4. **ACCEPTANCE:** Unless otherwise specified in the corresponding Product Schedule, a given Product shall be deemed accepted by Licensee upon delivery of the Product. Since product is hosted, software delivery will be when Licensee will be able to sign into the system and begin data conversion/migration.
5. **PAYMENT AND TAXES:** **Focus** will invoice Licensee for the amount due on acceptance of the Product. Subsequent charges will be invoiced at the beginning of the period to which they apply. All payments shall be due within thirty (30) days of Licensee's receipt of an invoice from **Focus**. Any amounts due under this Agreement or the Product Schedule which remain unpaid ten (10) days after the date due shall be subject to a late fee of 1.5% of the amount of the original invoice per month. Licensee shall pay all taxes not based on **Focus** net income or net worth, now or hereafter imposed under the authority of any federal, state, provincial or other taxing jurisdiction. The parties acknowledge that Licensee is tax exempt.
6. **MAINTENANCE AND SUPPORT:** During the time that the Product is under license according to an applicable Product Schedule and Licensee is current on all license and maintenance fees, **Focus** will provide email and telephonic support for such Product. **Focus** will also make generally incorporated improvements and enhancements that are not designated as options available to Licensee at no additional charge. If a malfunction corrected by **Focus** was due to anyone other than **Focus's** or its agents' modification of such Product, negligence or willful misconduct or misuse of such Product by Licensee, use of such Product in an operating environment other than that specified by **Focus**, or any failure by Licensee to implement any improvements or updates to such Product as supplied by **Focus** at no additional charge, **Focus** is not obligated to fix the malfunction, and if **Focus** does so, Licensee agrees to pay **Focus's** standard time and materials rates plus expenses for the services **Focus** provided in making the change or correction.
7. **OLDER PRODUCT VERSIONS:** Licensee understands that **Focus** reserves the right to discontinue support for older versions of a Product with thirty (30) days written notice to Licensee.
8. **PRODUCT ENHANCEMENTS AND TRAINING:**
- a. **NATURE OF SERVICES:** Unless otherwise agreed to within a Product Schedule, the Parties hereto agree that the services performed by an **Focus** employee(s) or its agents or contractors pursuant to any Product Schedule for services shall NOT be considered "work made for hire" as defined in 17 USC Section 101 (the Copyright Act) of the United States Code (including subsequent renumbering and successor statutes) and all intellectual property rights in all materials provided by **Focus** and in any work product resulting from the **Focus's** services, including, but not limited to, ideas and/or software products and/or modifications to

software products shall, automatically and without charge, be assigned to **Focus**, and/or be and remain exclusively vested in **Focus**. However, any work product resulting from the **Focus** services and other materials provided by **Focus** as part of **Focus** services shall, for purposes of establishing Licensee's right to use such work product and materials, be considered part of the Product(s) licensed from **Focus** that is associated with such work product and materials and Licensee's use of such work product and materials shall be subject to its license for such associated **Focus** Product(s).

- b. **RATES AND OUT OF POCKET EXPENSES:** Licensee will (a) pay **Focus** for services on a time and materials basis at the rates set forth in a Product Schedule for services.
- c. **ANTI-SOLICITATION OF EMPLOYEES:** For a period of eighteen (18) months after performance of this Agreement, Licensee shall not hire (as employee, consultant, independent contractor, or otherwise) any employee of **Focus** that Licensee learned about through the performance of this Agreement, nor shall Licensee directly or indirectly solicit, or induce or assist any third party in soliciting or inducing any employee of **Focus** that Licensee learned about through the performance of this Agreement, to leave his or her employment with **Focus**. In the event Licensee breaches its obligations pursuant to this Section, Licensee shall pay **Focus**, as liquidated damages and not as a penalty, an amount equal to one hundred percent of such employee's first year salary/wages/other compensation with the Licensee or third party (including bonuses, contract fees, and deferred income of any kind) within thirty (30) days of each such breach.

9. **INTELLECTUAL PROPERTY INFRINGEMENT:** **Focus** warrants that that it has all rights necessary to grant the licenses and perform the services provided hereunder and that no Program will infringe the copyright, patent, trademark or other intellectual property rights of any third party. This warranty shall run indefinitely. **Focus** agrees to defend or, at its exclusive option, settle, any action at law against Licensee alleging that Licensee's use of a given Product under this Agreement infringes any copyright, patent, trademark or other intellectual property rights of any third party ("Action"). **Focus** shall control the defense and any related settlement negotiation of any Action(s). Licensee shall promptly give notice of any such Action(s) and fully cooperate with **Focus**, at **Focus**'s expense, in the investigation, preparation, defense and settlement of each such Action. **Focus** agrees to hold Licensee harmless in the event of a copyright, patent, trademark or other intellectual property right dispute regarding its use of such Product. **Focus** will not be obligated to indemnify Licensee under any settlement made by or on behalf of Licensee without **Focus**'s written consent. If, in **Focus**'s opinion, any Product is infringing or may be held to be infringing, **Focus** may, at **Focus**'s option (a) modify the Product to make it non-infringing, (b) replace the Product with a non-infringing equivalent, or (c) require that Licensee return such Product and in such cases, **Focus** will give Licensee a pro-rated refund of all license fees paid for such Product for the time period Licensee was unable to use the Product. The obligations of this Section will not apply if the infringement is caused by (a) modification of the Product by anyone other than **Focus**, (b) negligence or willful misconduct of Licensee or its agent, (c) misuse of the Product by Licensee or its agent, (d) use of the Product other than in the specified operating environment, (e) failure by the Licensee to implement any improvements or updates to the Product as supplied by **Focus**, or (f) the combination of the Product with any materials, equipment, software, or hardware not provided by **Focus** or its agent contrary to specifications in the Documentation or Product Schedule. This Section describes Licensee's sole remedy, and **Focus**'s entire liability, for any claims of infringement.

10. **PRODUCT WARRANTY:**

- a. **PRODUCT WARRANTY:** **Focus** warrants that any given Product, as delivered by **Focus** and properly installed, is capable of operating in conformance with the Product's current published specifications. This warranty will apply for the duration of the Product Schedule. During this warranty period, **Focus** will correct or replace a given Product and/or will, at no charge to the Licensee, provide services necessary to remedy any programming error attributable to **Focus**. This Section describes Licensee's sole remedy, and **Focus**'s entire liability, for any warranty claims.
- b. **EXCLUSIONS:** This warranty will not apply if the programming error is caused by (i) modification of the Product by anyone other than **Focus**, (ii) negligence or willful misconduct of Licensee or its agent, (iii) misuse of the Product by Licensee or its agent, (iv) use of the Product other

than in the specified operating environment, (v) failure by the Licensee to implement any improvements or updates to the Product as supplied by **Focus**, or (vi) the combination of the Product with any materials, equipment, software, or hardware not provided by **Focus** or its agent contrary to specifications in the Documentation or Product Schedule. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, **FOCUS** MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE CONDITION OF SUCH PRODUCT, ITS MERCHANTABILITY, OR ITS FITNESS FOR ANY PARTICULAR PURPOSE.

11. LIMITATION OF LIABILITY:

- a. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT WILL **FOCUS** OR ITS AFFILIATES BE LIABLE TO LICENSEE OR ITS AFFILIATES FOR ANY CLAIM BASED UPON A THIRD PARTY CLAIM (EXCEPT AS SET FORTH ABOVE IN SECTION 9) OR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER ARISING IN TORT, CONTRACT, OR OTHERWISE; OR FOR ANY DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY MALFUNCTIONS, DELAYS, LOSS OF DATA, LOST PROFITS, LOST SAVINGS, INTERRUPTION OF SERVICE, LOSS OF BUSINESS OR ANTICIPATORY PROFITS, EVEN IF **FOCUS** OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. DISPUTE RESOLUTION: In case of any dispute arising or related to this Agreement or Product Schedule(s), **Focus** and Licensee, by mutual agreement, shall attempt to resolve any dispute informally thru mediation and if necessary, litigation.

- a. **MEDIATION:** In the event of a dispute, the Parties shall first attempt to resolve the matter through discussion and exchange of information. In the event such informal settlement discussions are unsuccessful, **Focus** and Licensee shall submit the dispute to Mediation prior to commencing any legal action against each other. The Parties agree that, in the event of a dispute, either party may send a notice demanding mediation, after which the parties shall mutually agree to within ten (10) days to the selection of a mediator, and Mediation shall be conducted as soon as reasonably practicable, but in no event later than sixty (60) days from the date of the notice. Mediation shall be conducted before a certified mediator in the State of Florida, unless otherwise mutually agreed by the Parties. All proposals and information exchanged as well as discussions during the informal settlement discussions and during the Mediation process will be considered settlement discussions and proposals and will be inadmissible in any subsequent proceedings.
- b. **LEGAL ACTION:** In the event the Parties are unable to resolve any dispute through Mediation, the Parties may pursue all claims based on such dispute as provided by law. The Parties consent to the exclusive personal jurisdiction of the Circuit Court in Pinellas County, Florida, or the United States District Court for the Middle District of Florida, which courts shall provide the exclusive venue for any action arising hereunder, unless another forum is mutually agreed to by the Parties.
- c. **ATTORNEY'S FEES:** In any action arising from or related in any manner to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs, including on any appeal.

d. WAIVER OF JURY TRIAL: THE PARTIES HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING OR OTHER LITIGATION RESULTING FROM OR RELATING IN ANY MANNER TO THIS AGREEMENT.

13. TERMINATION: Either party may terminate this Agreement if the other party commits a material breach of this Agreement and fails to remedy such breach within thirty (30) days after written notice from the non-breaching party. Licensee's failure to pay any amount (except amounts disputed in good faith) within thirty (30) days after receiving notice that the amount is delinquent shall be considered a material breach of this Agreement.

- a. **OBLIGATIONS:** Upon the expiration or termination of this Agreement or any Product Schedule

for any reason, Licensee shall certify in writing that the Product and all copies and/or partial copies of the Product have either been returned to **Focus** or otherwise destroyed and deleted from Licensee's computer libraries or storage devices and are no longer in use by Licensee. Licensee has the right to remove from the Product and retain its own proprietary data. All such data must be removed by Licensee within 30 days following contract termination.

- b. **SURVIVAL:** Any terms of this Agreement which by their nature extend beyond its termination remain in effect until fulfilled, and apply to respective successors and assignees.
 - c. **NO WAIVER:** The waiver by either party of a breach of any provision of the Agreement shall not operate or be construed as a waiver of any subsequent breach. This paragraph shall not be regarded as a waiver of any other rights or remedies to which **Focus** may be entitled.
14. **DIVESTITURE OF CLIENT BUSINESS:** In the event of a divestiture of a subsidiary, affiliate, business segment or other operating unit of Licensee ("Divested Unit") which is then utilizing Products licensed under this Agreement, the Licensee may, in addition to its continuing use for its ongoing businesses, continue to use such Products on behalf of the Divested Unit for a transitional period not to exceed six (6) months from the date of such divestiture ("Divestiture Use Period"). Any further use by the Divested Unit past the Divestiture Use Period shall require either a) Licensee to obtain a written extension of the Divestiture Use Period from **Focus**; or b) the Divested Unit to obtain its own separate license for use of the Products effective upon the expiration of the Divestiture Use Period.
15. **OUTSOURCING:** Licensee may outsource the display, use, and operation of the Products to a third party service provider ("Outsource Provider"), provided that such Outsource Provider executes a written agreement with **Focus**, acceptable to **Focus**, to protect the rights of **Focus** in the Products, prior to Licensee allowing the Outsource Provider any access to the Products. This requirement, however, does not prevent Licensee from using the Products with respect to any charter schools Licensee is required to support and for which Licensee is responsible for managing data.
16. **DISASTER RECOVERY:** Subject to any limitations in an applicable Product Schedule, Licensee may install and use the Products for testing, backup and temporary production purposes and for disaster recovery testing and operations at a location wholly owned and operated by Licensee or by an authorized Outsource Provider.
17. **ESCROW:** **Focus** has deposited a copy of the source code for the Products with Iron Mountain, Inc., 235 DeKalb Industrial Way, Decatur, Georgia 30030-2203. With each new release of the Product, **Focus** will deposit an updated copy of the source code with the escrow agent. The source code will be held in escrow and in the event **Focus** is liquidated, dissolved or ceases to carry on business on a regular basis in a manner which allows it to fulfill its maintenance and support obligations and said software and support obligations are not assumed by a successor or assignee, Licensee will, upon payment of the applicable duplication cost and other handling charges of the escrow agent, be entitled to a copy of such source code from the escrow agent, provided Licensee is then current in the payment of all fees for maintenance, support, products and services due to **Focus**. Any such source code shall be used for the sole purpose of performing maintenance of the Product and keeping it operable for use pursuant to a valid license, and subject to Licensee's agreement to keep the material strictly confidential and not to disclose it to any third party. Licensee and its employees, agents or representatives shall not, in any manner, use or dispose of the source code in violation of this Agreement.


18. **GENERAL:**

- a. **MODIFICATION:** No alteration or modification of this Agreement or any Product Schedules shall be valid unless made in writing and signed by the Parties.
- b. **SEPARABILITY:** If any provision of this Agreement or any Product Schedule is held to be invalid or unenforceable, the remaining provisions shall continue in full force and effect in such jurisdiction to the fullest extent permitted by law and the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.
- c. **NOTICES:** Any notice or other communication required or permitted hereunder shall be given

in writing to the other party at the address in a Product Schedule, or at such other address as shall be given by either party to the other in writing.

- d. **GOVERNING LAW:** The laws of the State of Florida govern this Agreement.
- e. **CONSENT:** In case of litigation arising out of or relating to this Agreement, **Focus** and Licensee hereby expressly consent to the exclusive personal jurisdiction of the state and/or federal courts of Florida.
- f. **AUTHORITY TO SIGN:** Licensee warrants that the person signing this Agreement and each Product Schedule for Licensee is authorized to do so, and that Licensee has obtained all internal and external approvals and resolutions necessary to enter into this Agreement and make it binding on Licensee.
- g. **NO THIRD PARTY RIGHTS:** This Agreement does not create, confer, or otherwise grant rights for the benefit of any third party, creditor, or supplier or incidental beneficiary of Licensee.
- h. **HEADINGS:** The Parties acknowledge that the headings used in this Agreement are for convenience purposes only and shall not be construed to define or limit the Parties' rights and remedies hereunder.
- i. **ENTIRE AGREEMENT:** This Agreement, Product Schedule(s) and any other supplement attached thereto, constitutes the entire agreement between the Parties in connection with the subject matter hereof and supersedes all agreements, proposals, representations and other understandings, oral or written, of the Parties and any current or subsequent purchase order(s) provided by Licensee.

By affixing their signatures below, the Parties agree to be so bound as to the terms of this Agreement.

ACCEPTED BY LICENSEE:	ACCEPTED BY FOCUS :
Signature	 Signature
Name	Steven Harnois Name
Title	Director of Operations Title
Date	May 5, 2020 Date



Pembroke Pines Charter Schools SIS Product Schedule

This Product Schedule is hereby incorporated into Master License Agreement Number PPCS-001 ("Agreement") as executed by **Focus School Software, Inc.**, ("**Focus**") and the Licensee as listed below. In accordance with the provisions of this Product Schedule and the Master Agreement and subject to Licensee's compliance with both, **Focus** grants Licensee a license for the Product(s) as listed below. Unless otherwise specified, this Product Schedule supersedes any prior Product Schedules for the Product(s) as listed below and to the extent that any provision of this Product Schedule conflicts with the Master Agreement, the provisions of this Product Schedule shall control with respect to the license granted herein. Licensee may not terminate this Product Schedule except in the case of a breach of the Master Agreement by **Focus** that remains uncured for thirty (30) days after **Focus** has received written notice of the breach.

Licensee	Pembroke Pines Charter Schools
Product(s) & Designated Hardware	<p>Focus School Software SIS: Attendance, Gradebook, Discipline, Scheduling, Registration, Online Enrollment, Eligibility, Student Demographic, Health & Guidance, Assessment Analysis, Ad Hoc Reporting, Parent /Student Portal, FL State Reporting, First Year Support & Maintenance, Focus Cloud Hosting</p> <p>Additional Modules:</p> <p>Before and After Care: Registration & Enrollment, Attendance, Scheduling, Student Accounting, Focus Messenger, Portals, Dashboards & Reporting</p> <p>Hardware: TR210 Attendance Kiosk, Quantity: 7 TR172 Mobile Attendance Device, Quantity: 5</p>
License Scope & Capacity	<p>General Scope - Limited strictly to the processing of Licensee's data by Licensee's employees, contractors, and affiliates.</p> <p>Special Limitations – If any.</p> <p>Other restrictions apply as listed in this Product Schedule.</p>
License Site	Site URL designated by LICENSEE.
Site	601 City Center Way, Pembroke Pines, FL 30025
License Type	Term License
License Term	The five (5) years beginning and ending on September 1, 2020 – August 31, 2025 subject to the termination provisions of the Master Agreement. The Parties agree that this Agreement will automatically renew for periods of one (1) year until terminated by either party.

Software License Fee (Includes First Year Maintenance)	Software	Rate	Units	Total
	Student Information System	\$18.00	5,335	\$96,030.00
	Before and After Care	\$3.00	4,234	\$12,702.00
	Total License Fees	\$108,732.00		

Hardware	Hardware	Rate	Units	Total
	TR210 Attendance Kiosk	\$429.00	7	\$3,003.00
	TR172 Mobile Attendance Device	\$329.00	5	\$1,645.00

	Shipping (3 Business Days Ground)	\$15.00	12	\$180.00
	Total Hardware	\$4,828.00		
Implementation Services	Implementation Services			
	Service	Rate	Units	Total
	Project Management On-Site	\$1,800.00	15	\$27,000.00
	Training (On-Site)	\$1,250.00	20	\$25,000.00
	Data Conversion & Cleansing	\$1,250.00	25	\$31,250.00
	Off Site Support	\$1,250.00	5	\$6,250.00
	Additional On-Site Support	\$1,800.00	10	\$18,000.00
	Total Implementation	\$107,500.00		
Total First Year Costs (includes implementation services and Hardware)	Licensee shall pay Focus as follows: <u>FOCUS/SIS Year One License + Implementation Fee:</u>			
	\$221,060.00 Due upon signing off on the following two (2) milestones:			
	Milestone 1: Contract Execution: \$110,530.00			
	Milestone 2 Scheduling Go-Live: \$110,530.00			
Annual Maintenance and Support	<u>Year 2 – 5 Annual Maintenance & Support (Due Annually, September 1, 2021 – 2025)</u>			
	Student Information System: \$4.00 Per Student			
	Before / After Care Subscription: \$3.00 Per Student			
	Cloud Hosting: \$1.00 Per Student			
	Licensee acknowledges that the License Fee in this Product Schedule is discounted, based on Licensee's commitment to pay the License Fee for the specified License Term. Licensee agrees to pay any applicable taxes associated with the License Fee. For the 2nd installment and beyond, Focus will invoice Licensee at least thirty (30) days prior to the listed due date. Any amounts due under this Product Schedule which remain unpaid ten (10) days after the date due shall be subject to a late fee of 1.5% of the amount of the original invoice per month.			

This Product Schedule is subject to the following Terms and Conditions:

Use Review: Upon reasonable notice, Licensee shall grant Focus access to its pertinent files, libraries and records, as produced from the Product(s), to perform a review of the Product ("Use Review"). All information obtained during a Use Review shall be treated as confidential.

For the purposes of performing the above review only, Focus is hereby designated a school official for the purposes of receiving limited confidential student information and Focus shall remain under the direct control of the School Board with respect to the use and maintenance of the confidential student information. Focus acknowledges and agrees that it will not disclose the confidential student information to any other person or entity, and will only use the confidential student information for the purpose listed in this paragraph and for no other purpose. Upon the completion of the services, Focus shall return to



School Board all original and any copies of the confidential student information, and shall not retain any confidential student information. As Focus will be receiving student information that is otherwise confidential, Focus shall fully comply with the requirements of § 1002.22 and § 1002.221, Florida Statutes, and any other law or regulation, either federal or State of Florida, regarding confidentiality of student information and records.

Further, Focus for itself, and its officers, employees, agents, representatives, contractors, and subcontractors, shall fully indemnify and hold the School Board and its officers and employees harmless for any violation of this provision, including, but not limited to defending the School Board and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon the School Board, or payment of any and all costs, damages, judgments, or losses incurred by or imposed upon the School Board arising out of the breach of this provision by Focus, or its officers, employees, agents, representatives, contractors, and subcontractors, to the extent that Focus shall either intentionally or negligently violate this provision, or § 1002.22 or § 1002.221, Florida Statutes. This provision shall survive the termination of or completion of all obligations under this Agreement and shall be fully binding upon Focus until such time as any proceeding which may be brought on account of this provision is barred by any applicable statute of limitations.

- Third Party Code: Notwithstanding anything to the contrary in this Product Schedule or the Master Agreement, Product(s) and applicable modules licensed herein may contain code licensed by **Focus** from a third party for license with Product(s) to end users ("Third Party Code"). Licensee agrees that if Product(s) contain Third Party Code, such Third Party Code is the Confidential Information of **Focus's** licensor and that Licensee's obligations with respect to the Title, Proprietary Rights and Confidentiality section of the Master Agreement shall apply with respect to such Third Party Code as if such Third Party Code was owned by **Focus** and was a part of Product(s) licensed from **Focus** pursuant to this Product Schedule; that title to such Third Party Code shall at all times remain with the owner of such Third Party Code; that Licensee may not use the Third Party Code separate from Product(s) or applicable module containing such code; that Licensee agrees not to translate, reverse compile, reverse assemble or otherwise reverse engineer the Third Party Code or permit others to do or attempt to do the same; that the section(s) pertaining to limitation /exclusion of damages/liabilities shall apply to such Third Party Code and Licensee agrees that **Focus's** licensor shall be excluded from any liability and/or indemnification obligations and to look exclusively to **Focus** (as set forth and limited in the Master License Agreement) for remedy of and indemnification for damages caused by such Third-Party Code. **Focus** makes no representations or warranties on behalf of **Focus's** third-party vendors, but **Focus's** indemnities, warranties, and maintenance obligations for Product(s) licensed under this Product Schedule will apply to such Third-Party Code as between **Focus** and Licensee.
- Headings: Headings or titles to Sections herein are for convenience and/or reference only and shall not affect the meaning or interpretation of this Product Schedule or any part of it.
- Acceptance: All Products shall be deemed received by Licensee upon execution of the Product Schedule and delivery.

Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, CONTRACTOR and CITY designate the following as the respective places for giving of notice:



LICENSEE Copy To:

Charles F. Dodge, City Manager

City of Pembroke Pines

601 City Center Way, 4th Floor

Pembroke Pines, Florida 33025 Telephone No. (954) 450-1040

Copy To:

Samuel S. Goren, City Attorney Goren,

Cherof, Doody & Ezrol, P.A.

3099 East Commercial Boulevard, Suite 200

Fort Lauderdale, Florida 33308

Telephone No. (954) 771-4500

Facsimile No. (954) 771-4923

FOCUS:

Steven Harnois, Director of Operations, Focus School Software, LLC

475 Central Ave, Suite #400 St. Petersburg, Florida 33701

St. Petersburg, FL 33701


Telephone No. (727) 388-7004

Facsimile No. (727) 213-6999



The parties agree that the prices, terms and special conditions contained in this Product Schedule constitute Confidential Information under the Master Agreement.

The parties agree that the prices, terms and special conditions contained in this Product Schedule constitute Confidential Information under the Master Agreement.

ACCEPTED BY LICENSEE:	ACCEPTED BY FOCUS :
Signature	 Signature
Name	Steven C. Harnois Name
Title	Director of Operations Title
Date	June 25, 2020 Date

Addendum to Agreement with Focus School Software, LLC

The following shall be included as part of the Master License Agreement ("Agreement") between the City of Pembroke Pines ("Licensee") and **Focus School Software, LLC ("Focus")**. In the event of any conflict between the language in the Agreement document and this Addendum, the terms of this Addendum shall take precedence.

1. Payment Terms

All payments shall be governed by the Local Government Prompt Payment Act, as set forth in Part VII, Chapter 218, Florida Statutes.

2. Governing Law and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida as now and hereafter in force. The venue for any and all actions or claims arising out of or related to this Agreement shall be in Broward County, Florida.

3. Insurance

3.1 **Focus** shall indemnify and hold harmless the CITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the CITY or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by **Focus** or its employees, agents, servants, partners, principals or subcontractors. **Focus** shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. **Focus** expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by **Focus** shall in no way limit the responsibility to indemnify, keep and save harmless and defend the CITY or its officers, employees, agents and instrumentalities as herein provided.

3.2 **Focus** shall not commence work under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the CITY nor shall **Focus** allow any subcontractor to commence work on any subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.

3.3 Certificates of Insurance, reflecting evidence of the required insurance, shall be filed with the CITY's Risk Manager prior to the commencement of this Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance company shall be rated no less than "A" as to management, and no less than "Class VI" as to financial strength according to the latest edition of Best's Insurance Guide published by A.M. Best Company.

3.4 Certificates of Insurance shall provide for thirty (30) days' prior written notice to the CITY in case of cancellation or material changes in the policy limits or coverage states. If the carrier cannot provide thirty (30) days' notice of cancellation, either **Focus** or their Insurance Broker must agree to provide notice.

3.5 Insurance shall be in force until all obligations required to be fulfilled under the terms of the Agreement are satisfactorily completed as evidenced by the formal acceptance by the CITY. In the event the

insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, **Focus** shall furnish, at least forty-five (45) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. **Focus** shall neither commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. **Focus** shall be liable to CITY for any lapses in service resulting from a gap in insurance coverage.

3.6 REQUIRED INSURANCE

Focus shall be required to obtain all applicable insurance coverage, as indicated below, prior to commencing any work pursuant to this Agreement:

Yes No

- ✓ ☐ 3.6.1 Comprehensive General Liability Insurance written on an occurrence basis including, but not limited to: coverage for bodily injury and property damage, personal & advertising injury, products & completed operations, and contractual liability. Coverage must be written on an occurrence basis, with limits of liability no less than:

1. Each Occurrence Limit - \$1,000,000
2. Fire Damage Limit (Damage to rented premises) - \$100,000
3. Personal & Advertising Injury Limit - \$1,000,000
4. General Aggregate Limit - \$2,000,000
5. Products & Completed Operations Aggregate Limit - \$2,000,000

Products & Completed Operations Coverage shall be maintained for the later of three (3) years after the delivery of goods/services or final payment under the Agreement.

The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.

Yes No

- ✓ ☐ 3.6.2 Workers' Compensation and Employers' Liability Insurance covering all employees, and/or volunteers of **Focus** engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, **Focus** shall require the subcontractors similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by **Focus**. Coverage for **Focus** and all subcontractors shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation Insurance with limits of liability no less than:

1. Workers' Compensation: Coverage A – Statutory
2. Employers Liability: Coverage B \$500,000 Each Accident
\$500,000 Disease – Policy Limit
\$500,000 Disease – Each Employee

If **Focus** claims to be exempt from this requirement, **Focus** shall provide CITY proof of such

exemption for CITY to exempt **Focus**.

Yes No

- ☐ * 3.6.3 Comprehensive Auto Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Agreement, with a combined single limit of liability for bodily injury and property damage no less than:

1. Any Auto (Symbol 1)
Combined Single Limit (Each Accident) - \$1,000,000
2. Hired Autos (Symbol 8)
Combined Single Limit (Each Accident) - \$1,000,000
3. Non-Owned Autos (Symbol 9)
Combined Single Limit (Each Accident) - \$1,000,000

If work under this Agreement includes transportation of hazardous materials, policy shall include pollution liability coverage equivalent to that provided by the latest version of the ISO pollution liability broadened endorsement for auto and the latest version of the ISO Motor Carrier Act endorsement, equivalents or broader language.

Yes No

- ☐ * 3.6.3.1 If **Focus** requests reduced limits under a Personal Auto Liability Policy and it is agreed to by the CITY, coverage shall include Bodily Injury limits of \$100,000 per person/\$300,000 per occurrence and Property Damage limits of \$300,000 per occurrence

Yes No

- ☐ * 3.6.4 Umbrella/Excess Liability Insurance in the amount of \$_____ as determined appropriate by the CITY depending on the type of job and exposures contemplated. Coverage must be follow form of the General Liability, Auto Liability and Employer's Liability. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this Agreement.

The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.

Yes No

- ☐ * 3.6.5 Professional Liability/Errors & Omissions Insurance with a limit of liability no less than \$1,000,000 per wrongful or negligent act. This coverage shall be maintained for a period of no less than three (3) years after the delivery of goods/services final payment pursuant to this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY.

Yes No

- ☐ ✖ 3.6.6 Environmental/Pollution Liability insurance shall be required with a limit of no less than \$1,000,000 per wrongful act. Coverage shall include: **Focus**' completed operations, sudden, accidental and gradual pollution conditions. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY. *(Limit to align with size and scope of the Agreement and exposure inherent with operation/services being performed. For Construction projects: Increase to ten (10) years)*

The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.

Yes No

- ✓ ☐ 3.6.7 Cyber Liability including Network Security and Privacy Liability with a limit of liability no less than \$1,000,000 per loss. Coverage shall include liability arising from: theft, dissemination and/or use of confidential information stored or transmitted in electronic form, unauthorized access to, use of, or tampering with computer systems, including hacker attacks or inability of an authorized third party to gain access to your services, including denial of service, and the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network, or similar computer-related property and the data, software and programs thereon. If vendor is collecting credit card information, it shall cover all PCI breach expenses. Coverage is to include the various state monitoring and state required remediation as well as meet the various state notification requirements. This coverage shall be maintained for a period of no less than the later of three (3) years after delivery of goods/services or final payment of the Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY.

The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.

Yes No

- ☐ ✖ 3.6.8 Crime Coverage shall include employee dishonesty, forgery or alteration, and computer fraud in an amount of no less than \$1,000,000 per loss. If **Focus** is physically located on CITY's premises, a third-party fidelity coverage extension shall apply.

Yes No

- ☐ ✖ 3.6.9 Garage Liability & Garage-keepers Legal Liability for those that manage parking lots for the CITY or service CITY vehicles. Coverage must be written on an occurrence basis, with limits of liability no less than \$1,000,000 per Occurrence, including products & completed operations. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment of this Agreement.

The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.

Yes No

- ☐ * 3.6.10 Liquor Liability for those in the business of selling, serving or furnishing of any alcoholic beverages, whether licensed or not, shall carry a limit of liability of no less than \$1,000,000 per occurrence. Coverage shall be maintained for the later of three (3) years after the delivery of goods/services or final payment under the Agreement.

The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.

Yes No

- ☐ * 3.6.11 Sexual Abuse & Molestation for any agreement involving a vulnerable population. Limits shall be no less than \$500,000 per occurrence. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment of this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY.

The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.

Yes No

- ☐ * 3.6.12 Builder's Risk Insurance shall be "All Risk" for one hundred percent (100%) of the completed value of the project that is the subject of this Agreement with a deductible of not more than five percent (5%) for Named Windstorm and \$20,000 per claim for all other perils. The Builder's Risk Insurance shall include interests of the CITY, **Focus** and subcontractors of the project. **Focus** shall include a separate line item for all costs associated with the Builder's Risk Insurance Coverage for the project. The CITY reserves the right at its sole discretion to utilize **Focus**' Builder's Risk Insurance or for the CITY to purchase its own Builder's Risk Insurance for the Project. Prior to **Focus** purchasing the Builder's Risk insurance for the project, **Focus** shall allow the CITY the opportunity to analyze **Focus**' coverage and determine who shall purchase the coverage. Should the CITY utilize **Focus**' Builder's Risk Insurance, **Focus** shall be responsible for all deductibles. If the CITY chooses to purchase the Builder's Risk Coverage on the project, **Focus** shall provide the CITY with a change order deduct for all premiums and costs associated with the Builder's Risk insurance in their schedule. Should the CITY choose to utilize the CITY's Builder's Risk Program, the CITY shall be responsible for the Named Windstorm Deductible and **Focus** shall be responsible for the All Other Perils Deductible.

If and when 100% is not available or reasonable, the CITY Risk Manager is to make the determination as to what limits are appropriate for the given project.

Yes No

☐ ☒ 13.6.13 Other Insurance

3.7 REQUIRED ENDORSEMENTS

- 3.7.1 The City of Pembroke Pines shall be named as an Additional Insured on each of the Liability Policies required herein.
- 3.7.2 Waiver of all Rights of Subrogation against the CITY.
- 3.7.3 Thirty (30) Day Notice of Cancellation or Non-Renewal to the CITY.
- 3.7.4 **Focus**' policies shall be Primary & Non-Contributory.
- 3.7.5 All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the CITY.
- 3.7.6 The City of Pembroke Pines shall be named as a Loss Payee on all Property and/or Inland Marine Policies as their interest may appear.

3.8 Any and all insurance required of **Focus** pursuant to this Agreement must also be required by any subcontractor in the same limits and with all requirements as provided herein, including naming the CITY as an additional insured, in any work that is subcontracted unless such subcontractor is covered by the protection afforded by **Focus** and provided proof of such coverage is provided to CITY. **Focus** and any subcontractors shall maintain such policies during the term of this Agreement.

3.9 The CITY reserves the right to require any other additional types of insurance coverage and/or higher limits of liability it deems necessary based on the nature of work being performed under this Agreement.

3.10 The insurance requirements specified in this Agreement are minimum requirements and in no way reduce any liability **Focus** has assumed in the indemnification/hold harmless section(s) of this Agreement.

4. Sovereign Immunity

Nothing contained herein is intended nor shall be construed to waive Licensee's rights and immunities under the common law or Section 768.28, Florida Statutes, as may be amended from time to time.

5. Non-Discrimination & Equal Opportunity Employment

During the performance of the Agreement, neither **Focus** nor any subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. **Focus** will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. **Focus** shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. **Focus** further agrees that **Focus** will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

6. **Independent Contractor**

This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that **Focus** is an independent contractor under this Agreement and not the Licensee's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. **Focus** shall retain sole and absolute discretion in the judgment of the manner and means of carrying out STS's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of **Focus**, which policies of **Focus** shall not conflict with Licensee, State, H.U.D., or United States policies, rules or regulations relating to the use of **Focus**' funds provided for herein. **Focus** agrees that it is a separate and independent enterprise from the Licensee, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between **Focus** and the Licensee and the Licensee will not be liable for any obligation incurred by **Focus**, including but not limited to unpaid minimum wages and/or overtime premiums.

7. **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

8. **Assignments; Amendments.** This Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by **Focus** without the prior written consent of Licensee. For purposes of this Agreement, any change of ownership of **Focus** shall constitute an assignment which requires Licensee approval. However, this Agreement shall run to the benefit of Licensee and its successors and assigns.

It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

9. **Public Records**

9.1 The City of Pembroke Pines is a public agency subject to Chapter 119, Florida Statutes. **Focus** shall comply with Florida's Public Records Law. Specifically, **Focus** shall:

9.1.1 Keep and maintain public records required by the Licensee to perform the service;

9.1.2 Upon request from the Licensee's custodian of public records, provide the Licensee with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

9.1.3 Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, following completion of the Agreement, **Focus** shall destroy all copies of such

confidential and exempt records remaining in its possession after **Focus** transfers the records in its possession to the Licensee; and

9.1.4 Upon completion of the Agreement, **Focus** shall transfer to the Licensee, at no cost to the Licensee, all public records in **Focus**' possession. All records stored electronically by **Focus** must be provided to the Licensee, upon request from the Licensee's custodian of public records, in a format that is compatible with the information technology systems of the Licensee.

9.2 The failure of **Focus** to comply with the provisions set forth in this Article shall constitute a default and breach of this Agreement, for which, the Licensee may terminate the Agreement in accordance with the terms herein.

**IF FOCUS HAS QUESTIONS REGARDING THE APPLICATION OF
CHAPTER 119, FLORIDA STATUTES, TO FOCUS' DUTY TO
PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT,
CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK
601 CITY CENTER WAY, 4th FLOOR
PEMBROKE PINES, FL 33025
(954) 450-1050
mgraham@ppines.com**

10. **Notice**

Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, **Focus** and Licensee designate the following as the respective places for giving of notice:

Licensee	Charles F. Dodge, City Manager City of Pembroke Pines 601 City Center Way, 4 th Floor Pembroke Pines, Florida 33025 Telephone No. (954) 450-1040
Copy To:	Samuel S. Goren, City Attorney Goren, Cherof, Doody & Ezrol, P.A. 3099 East Commercial Boulevard, Suite 200 Fort Lauderdale, Florida 33308 Telephone No. (954) 771-4500 Facsimile No. (954) 771-4923
Focus	Steve Harnois, Director of Operations Focus School Software

**475 Central Avenue, Suite #400
St. Petersburg, FL 33701**

E-mail: steven@focusschoolsoftware.com

Telephone No: 727-388-7004

Facsimile No: 727-213-6999

11. Attorneys' Fees.

In the event that either party brings suit for enforcement of this Agreement, each party shall bear its own attorney's fees and court costs, except as otherwise provided under the indemnification provisions set forth herein above.

12. Scrutinized Companies

Focus, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services if:

12.1 Any amount of, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

12.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

12.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or

12.2.2 Is engaged in business operations in Syria.

13. Florida Information Protection Act

Focus agrees and understands that the services and/or goods provided under this Agreement consist, at least in part, of "customer records" that contain "personal information," as defined in the Florida Information Protection Act, Section 501.171, Florida Statutes (the "Act"). Accordingly, as required by the Act, **Focus** agrees to implement safeguards to protect customer records containing personal information, in whatever form retained and stored, from a breach of security. If customer records in **Focus**' possession are breached in the manner set forth in the Act, **Focus** shall immediately notify CITY as required by law, and **Focus** shall work with CITY as required by the Act to assist in any of the following actions:

13.1 Investigate the alleged breach and determine if an actual breach has occurred, which may include the use of law enforcement officials as needed and as determined by CITY;

13.2 Provide notice to any and all consumers whose personal information has been breached;

13.3 Provide any and all other notices to governmental agencies that may be applicable under the Act, if a breach has reached a particular threshold, as defined in the Act, which may include but is not limited to: credit reporting agencies and the Florida Department of Legal Affairs;

13.4 Ensure that **Focus**' third-party agents are made aware of the Act and any requirement to comply with the Act, and require that those third-party agents that store customer records of CITY who experience a breach notify CITY immediately, and work with **Focus** and CITY as outlined in this section of the Addendum.

The procedures specified herein shall not supersede any requirement specified by the Act. The provisions of the Act, as may be amended from time to time, shall prevail in the event of any conflict.

14 **Education Records**

15.1 Education records held CITY may be disclosed to **Focus** for purposes identified in **Product Schedule**.

14.2 **Authorization for Disclosure of Education Records.** **Focus** will obtain consent from each student's parent/guardian or student age 18 or older, whose education records are to be shared prior to CITY disclosing or allowing **Focus** to gain access to the education records required by **Product Schedule**.

14.3 **Confidentiality of Education Records.** Notwithstanding any provision to the contrary within this Agreement, **Focus** shall:

14.3.1 Fully comply with the requirements of Sections 1002.22, 1002.221, and 1002.222, Florida Statutes; the Family Educational Rights and Privacy Act, 20 U.S.C § 1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99), and any other state or federal law or regulation regarding the confidentiality of student information and records;

14.3.2 Hold any education records in strict confidence and not use or disclose, except as required by this Agreement or as required or permitted by law unless the parent of each student or a student age 18 or older whose education records are to be shared provides prior written consent for their release;

14.3.3 Ensure that, at all times, all of its employees who have access to any education records during the term of their employment shall abide strictly by its obligations under this Agreement, and that access to education records is limited only to its employees that require the information to carry out the responsibilities under this Agreement and shall provide said list of employees to CITY upon request;

14.3.4 Safeguard each education record through administrative, physical and technological safety standards to ensure that adequate controls are in place to protect the education records and information in accordance with FERPA's privacy requirements;

14.3.5 Utilize the education records solely for the purposes of providing services as contemplated under this Agreement; and shall not share, publish, sell, distribute, target advertise, or display education records to any third party;

14.3.6 Notify CITY immediately upon discovery of a breach of confidentiality of education records by telephone and email pursuant, and shall take all necessary notification steps as may be

required by federal and Florida law, including, but not limited to, those required by Section 501.171, Florida Statutes;

14.3.7 Fully cooperate with appropriate CITY staff to resolve any privacy investigations and concerns in a timely manner;

14.3.8 Prepare and distribute, at its own cost, any and all required breach notifications, under federal and Florida Law, or reimburse CITY any direct costs incurred by CITY for doing so, including, but not limited to, those required by Section 501.171, Florida Statutes;

14.3.9 Be responsible for any fines or penalties for failure to meet breach notice requirements pursuant to federal and/or Florida law;

14.10 Provide CITY with the name and contact information of its employee who shall serve as **Focus**' primary security contact and shall be available to assist CITY in resolving obligations associated with a security breach of confidentiality of education records; and

14.3.11 Securely erase education records from any media once any media equipment is no longer in use or is to be disposed; secure erasure will be deemed the deletion of the education records using a single pass overwrite Secure Erase (Windows) or Wipe (Unix).

14.4 CITY may disclose personally identifiable information from an education record of a student to **Focus** in order for it to perform the services that are the subject of this Agreement. The type of personally identifiable student information to be disclosed by CITY to **Focus** is described in **Product Schedule**. **Focus** agrees that it shall destroy or return any disclosed information to CITY when no longer needed for the purposes herein. **Focus** acknowledges and agrees that it may use personally identifiable information from education records only to meet the purpose or purposes stated herein.

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HAS BEEN INTENTIONALLY LEFT BLANK

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

Licensee:

CITY OF PEMBROKE PINES, FLORIDA

ATTEST:

MARLENE GRAHAM,
CITY CLERK

BY: _____
CHARLES F. DODGE
CITY MANAGER

APPROVED AS TO FORM.

Name: _____
OFFICE OF THE CITY ATTORNEY


Witnesses:

Print Name

Kaytie Shea
Print Name

Focus

Focus School Software, LLC

By: 
Name: Steven Harnois
Title: Director of Operations