



Kenton County School District | It's about ALL kids.

# Issue Paper

**DATE:**

5/25/2021

**AGENDA ITEM (ACTION ITEM):**

Consider/Approve the Memorandum of Agreement between Vector Solutions and the Kenton County School District (KCS D) for 12 month access to the Employee Safety and Compliance Library for all employees.

**APPLICABLE BOARD POLICY:**

01.11 General Powers and Duties of the Board

**HISTORY/BACKGROUND:**

The Kenton County School District employees are required annual safety and compliance trainings as a condition for their employment each year. Vector Solutions, commonly referred to as Safe Schools, offer these required trainings and more available in their Employee Safety and Compliance Library subscription. These online training modules, and quizzes to confirm understanding, are not only beneficial for state required training compliance, but have often been found beneficial in extending employee learning in identified areas of employee growth. The library also serves our staff by housing unique KCS D created trainings, as well as documents completion records for our staff annually.

**FISCAL/BUDGETARY IMPACT:**

\$13,734.00 General Fund

**RECOMMENDATION:**

Approval to the Memorandum of Agreement between Vector Solutions and the Kenton County School District (KCS D) for 12 month access to the Employee Safety and Compliance Library for all employees.

**CONTACT PERSON:**

Malina Owens

\_\_\_\_\_  
Principal/Administrator

*Malina Owens*  
\_\_\_\_\_  
District Administrator

*[Signature]*  
\_\_\_\_\_  
Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.  
Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.

## Vector Solutions K-12 Education Software as a Service Client Agreement

This Vector Solutions K-12 Education Software as a Service Client Agreement (the "**Agreement**"), effective as of the date in the attached Schedule A (the "**Effective Date**"), is by and between Scenario Learning, LLC d/b/a Vector Solutions ("**Vector Solutions**"), an Ohio limited liability company, and the undersigned client ("**Client**"), (each a "**Party**" or "**Parties**"), and governs the purchase and ongoing use of the Services described in this Agreement.

### 1. **SERVICES.** Vector Solutions shall provide the following Services:

1.1. Access and Use. Subject to and conditioned on Client's payment of fees and Client's and its users' compliance with the terms and conditions of this Agreement, Vector Solutions hereby grants Client a non-exclusive, non-transferable (except in compliance with Section 9.1 Assignment), revocable authorization to remotely access and use the software as a service offering identified in Schedule A (the "**Services**") and, unless prohibited by law, will provide access to any persons designated by Client solely for use by Client's users, in accordance with the terms and conditions herein. For avoidance of doubt, access and use authorizations are issued on a "one user per one authorization basis" and once granted, such authorizations are not transferable to other users. The ability to use the Services may be affected by minimum system requirements or other factors, such as Client's Internet connection.

1.2. Availability. Vector Solutions shall use commercially reasonable efforts to provide access to and use of Services by Client's Named Users twenty-four (24) hours a day, seven (7) days a week, subject to scheduled downtime for routine maintenance, emergency maintenance, system outages, and other outages beyond Vector Solutions' control.

1.3. Help Desk. Vector Solutions will assist Named Users as needed on issues relating to usage via e-mail and Help Desk five (5) days per week at scheduled hours.

1.4. Upgrades and Updates. Vector Solutions reserves the right, in its sole discretion, to make updates or upgrades to the Services that it deems necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of the Vector Solutions' Services to its clients; (ii) the competitive strength of or market for Vector Solutions' services; or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable Law. Without paying additional compensation, Client will receive access to any general upgrades and updates to the Services which Vector Solutions makes generally available to its other clients. All updates and upgrades to the Services are subject to the terms and conditions of this Agreement.

#### 1.5. Service Specific Terms and Conditions.

##### 1.5.1. SafeSchools Alert Services and SafeSchools Incident Tracking Services.

The following subsections (a) and (b) *apply if and only if* Client is purchasing "SafeSchools Alert Service" or "SafeSchools Incident Tracking Service" and such services are included in Schedule A:

(a) SafeSchools Alert Service. Client acknowledges that all transmissions it receives from the SafeSchools Alert Service may contain highly sensitive, personal information, including without limitation Personally Identifiable Information ("**PII**") and other protected information ("**Protected Information**"), and Client shall ensure that all such Protected Information is secured from transmission or disclosure to unauthorized recipients. Client shall be solely responsible for establishing commercially reasonable safeguards to prevent the transmission or disclosure of Protected Information to unauthorized recipients. In addition, Client shall be solely responsible for the determination of the identities of authorized recipients and unauthorized recipients. Client agrees to handle the data in accordance with FERPA and any applicable Federal, State, or local laws or regulations, and that it will monitor employees using the SafeSchools Alert Service to ensure they abide by the SafeSchools Alert Privacy Policy and Terms of Use.

(b) SafeSchools Incident Tracking Service. Client represents and warrants that it is not a health care provider, health plan, or health care clearinghouse (collectively, a "covered entity") as those terms are defined under the federal Health Information Portability and Accountability Act ("**HIPAA**"). Client further represents and warrants that it is not a business associate as that term is defined under HIPAA. Client further agrees to indemnify and hold Vector Solutions and its officers, members, agents and employees harmless from any and all claims and demands (including reasonable attorneys' fees associated with the same) made by Client or any third party due to or arising out of any claim that Vector Solutions is a covered entity or business associate, due to Client's use of the SafeSchools Accident Tracking Service.



1.5.2. LiveSafe Services. The following additional subsection (a) applies if and only if Client is purchasing LiveSafe Services and such services are included in Schedule A.

(a) Client acknowledges and agrees that its use of any products and services provided hereunder by Vector Solutions from LiveSafe are subject to and governed by the terms available at <http://livesafemobile.com/end-user-terms>. In the event of conflict or inconsistency between terms of this Agreement and the LiveSafe terms of use, the LiveSafe terms of use shall control.

## 2. CLIENT'S OBLIGATIONS, COMPLIANCE, AND USE RESTRICTION.

2.1. Compliance. Client shall be responsible for all Users' compliance with this Agreement and use commercially reasonable efforts to prevent unauthorized access to or use of the Services. Client shall comply with all applicable laws, standards, and regulations and will not use the Services in a manner not specified or permitted by Vector Solutions.

2.2. FERPA. Both Parties are subject to the Family Educational Rights and Privacy Act ("FERPA") and to that end agree: (a) they are each providing educational services to the other that they would otherwise have to provide for themselves using faculty and staff; (b) each party has a legitimate educational interest in the student education records disclosed under this Agreement; and (c) Vector Solutions agrees to be under the direct control of Named User with respect to the use and maintenance of information from student education records. Any party, including a school official who receives student education records as otherwise enumerated in this Agreement, acknowledges that the student education record is confidential and may use the information only for the purposes for which the disclosure was made hereunder including only the reporting of the student's use of the Services and review of materials by external examiners and except as permitted elsewhere in this Agreement, Vector Solutions may not re-disclose the information to any third party without prior written consent from the student and Named User. Furthermore, the Parties shall work together to share student education records in a manner that best assures the protection of student education records from disclosure.

### 2.3. COPPA.

2.3.1 The Parties acknowledge and agree that in the event a Named User under thirteen (13) years of age registers or logs in to use the Services, by personally providing to Vector Solutions such Named User's personal information as such information is defined under the Children's Online Privacy Protection Rule ("COPPA"), including: (a) first and last name; (b) home or other physical address including street name and name of city or town; (c) email address; (d) screen or username; (e) telephone number; (f) social security number; (g) persistent identifier; (h) photograph, video, or audio file where such file contains a child's image or voice; (i) geolocation information that can identify the names of a street and city; and (j) information collected from such Named User that is combined with any of the previous (collectively, "COPPA Personally Identifiable Information" or "COPPA PII"), such PII shall be subject to the provisions of COPPA.

2.3.2 Each party represents and warrants that to the extent such party's own activities in furtherance of this Agreement are subject to the provisions of COPPA, such party shall operate in accordance with the applicable terms of COPPA for the duration of the term hereof.

2.3.3 Vector Solutions shall make commercially reasonable efforts to ensure that COPPA PII remains confidential and secured from transmission or disclosure to unauthorized recipients until such PII is deleted pursuant to the terms hereof.

2.3.4 Vector Solutions shall make no commercial use of PII collected on Client's behalf other than for educational and safety purposes and shall use PII solely for Client's benefit. Vector Solutions shall provide to Client all notices required by COPPA regarding Vector Solutions' practices as they relate to collecting, using, or disclosing COPPA PII, as well as notice of any material change to such practices in a timely manner under the law. Vector Solutions shall rely on Client to obtain verifiable consent from a parent or guardian (collectively, "Parent") of each Named User under the age of 13, registered in association with Client ("Verifiable Consent") to use the Services.

2.3.5 Client shall make reasonable efforts to obtain Verifiable Consent to use the Services using one or more of the following methods: (a) providing a consent form to be signed by Parent and returned to Client by mail, fax, or electronic scan; (b) requiring a Parent, in connection with a monetary transaction, to use a credit or debit card or other online payment system that provides notification of each discrete transaction to the primary account holder; (c) having a Parent call a toll-free number staffed by trained personnel; (d) having a Parent connect to trained personnel via video-conference; (e) checking a form of government-issued identification against databases of such information, provided Client deletes Parent's identification promptly following the completion of the verification; or (f) sending an email coupled with

additional steps, including (i) sending a second email confirming consent; or (ii) confirming consent by letter or telephone call after obtaining Parent's address or telephone number, provided that such methods of confirmation include notice that Parent may revoke any consent previously provided in response to the initial email.

2.3.6 In the event a Parent requests to exercise such Parent's right to: (a) review; (b) request deletion of; or (c) refuse further use or collection of the PII collected from the Parent's child, Client shall relay such request to Vector Solutions without unreasonable delay following Client's successful verification that the requester is the Named User's Parent.

2.3.7 Vector Solutions shall delete PII collected from Named Users under the age of 13: (a) once such PII is no longer needed to fulfill the purpose of its collection; or (b) upon verified request by such Named User's Parent, and shall utilize commercially reasonable safeguards to protect the PII from unauthorized access or use upon its disposal.

2.4. California Consumer Privacy Act (CCPA). Insofar as Vector Solutions will be processing personal information subject to the California Consumer Privacy Act, sections 1798.100 to 1798.199, Cal. Civ. Code (2018) as may be amended, as well as all regulations promulgated thereunder from time to time ("**CCPA**"), on behalf of Client in the course of the performance of this subject Agreement, the terms "California consumer," "business purpose," "service provider," "sell" and "personal information" shall carry the meanings set forth in the CCPA.

2.4.1 Disclosures. To the extent the CCPA applies to the processing of any personal information by Vector Solutions pursuant to Client's instructions in relation to this subject Agreement, the following also apply: (a) The Parties have read and understand the provisions and requirements of the CCPA, and shall comply with them; (b) It is the intent of the Parties that the sharing or transferring of personal information of California consumers from Client to Vector Solutions during the course of Vector Solutions' performance of this Agreement does not constitute selling of personal information as that term is defined in the CCPA, because Client is not sharing or transferring such data to Vector Solutions for valuable consideration; and (c) Vector Solutions will only use personal information for the specific purpose(s) of performing the services specified in the Agreement, including any Schedules and Statements of Work appended thereto, and within the direct business relationship with Client.

## 2.5. Identify Named Users.

2.5.1. A "**Named User**" is defined as a Client's employees, students, consultants, contractors, and agents: (a) who are authorized by Client to access and use the Services during each contract year of the Agreement; and (b) for whom access to the Services is purchased hereunder.

2.5.2. For Clients accessing and using the Services, Client shall: (a) cause each of its Named Users to complete a unique profile, if not created by Vector Solutions on their behalf; and (b) timely maintain a user database, by adding a unique profile for each new Named User. Due to licensing and data retention requirements, Named Users may not be removed from the Vector Solutions system unless required by applicable law. Client will be responsible for identifying Named Users from time to time during the Term of this Agreement through available system capabilities.

2.5.3. Additional Named Users. Additional Named Users added after the Effective Date shall be billed at the full per Named User fee. Such additional Named Users shall become part of the Minimum Annual Commitment for subsequent years on the anniversary date of each contract year or upon renewals under the Agreement.

2.5.4. Client agrees to pay for the number of Users using or authorized to access the Services in a given contract year.

2.5.5. Subject to the Minimum Annual Commitment, if any, set forth in Schedule A, annual charges for Client's use of the Services will be based upon the actual number of Named Users (i.e., actual Users plus Named Users) in a given contract year. Named Users inactivated in a given contract year will not count towards the total number of Named Users in the year following such inactivation unless reactivated.

2.6. Future Functionality. Client agrees that its purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any public comments regarding future functionality or features.

## 3. FEES AND PAYMENTS.

3.1. Fees. Client will pay for the Services in accordance with the fee schedule in Schedule A attached to this Agreement. Fees, both during the Initial Term as well as any Renewal Terms, shall be increased by 3.0% per year. Unless otherwise agreed, Changes in Named User counts will be reflected in the annual contract amount from that period forward for all Users.

3.2. Payments. All fees due under this Agreement must be paid in United States Dollars. Vector Solutions will invoice Client in advance according to the frequency stated in Schedule A. All invoices are due and payable thirty (30) days after invoice date ("**Due Date**"). Any undisputed fees unpaid for more than ten (10) days past the due date shall bear interest at 1.5% per month. All fees collected by Vector Solutions under this Agreement are fully earned when due and nonrefundable when paid.

3.3. Suspension of Service for Overdue Payments. Vector Solutions shall have the right, in addition to all other rights and remedies to which Vector Solutions may be entitled, to suspend Client's Named Users' access to the Services without notice until all overdue payments are paid in full. Suspension of Client's use of the Services or termination of the Agreement for Client's violation of the terms of this subject Agreement will not relieve Client of its obligation to pay any and all fees and expense reimbursements due for the applicable term. In addition, Vector Solutions may suspend, terminate, or otherwise deny Client's or any Named User's access to or use of all or any part of the Services without incurring any resulting obligation or liability, if: (a) Vector Solutions receives a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires Vector Solutions to do so; or (b) Vector Solutions believes, in its good faith and reasonable discretion, that: (i) Client or any Named User has failed to comply with any term of this Agreement, or accessed or used the Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement; or (ii) Client's use of the Services represents a direct or indirect threat to its network function or integrity or to Vector Solutions' other customers' ability to access and use the Services; or (iii) Vector Solutions' Client or any Named User is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Services; or (iv) this Agreement expires or is terminated. This Section 3.3. does not limit any of Vector Solutions' other rights or remedies, whether at law, in equity, or under this Agreement.

3.4. Taxes. All fees under this Agreement exclude all sales, use, and other taxes and government charges, whether federal, state, or foreign, and Client will be responsible for payment of all such taxes (other than taxes based on Vector Solutions' income), fees, duties, and charges, and any related penalties and interest, arising from the payment of any and all fees under this Agreement including the access to or performance of the Services hereunder. If Vector Solutions has a legal obligation to pay or collect taxes for which Client is responsible under the Agreement, then the appropriate amount will be invoiced to and paid by Client, unless Client claims tax exempt status for amounts due under this Agreement and provides Vector Solutions a valid tax exemption certificate (authorized by the applicable governmental authority) promptly upon execution of this Agreement. If any taxes shall be required by law to be deducted or withheld from any fee payable hereunder by Client to Vector Solutions, Client shall, after making the required deduction or withholding, increase such fee payable as may be necessary to ensure that Vector Solutions shall receive an amount equal to the fee it would have received had no such deduction or withholding been made.

#### 4. INTELLECTUAL PROPERTY RIGHTS.

4.1. Vector Solutions alone (and its licensors, where applicable) shall own all rights, title and interest in and to Vector Solutions' trademarks, software, website, or technology, the course content, and the Services provided by Vector Solutions (collectively the "Vector Solutions Intellectual Property"), as well as any and all suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by Client (collectively, "Feedback"), and this Agreement does not convey to Client any rights of ownership to the Vector Solutions Intellectual Property or Feedback. Vector Solutions may use such Feedback given by Client to improve the Services, and such use shall not be deemed to confer any property rights to the Services to the Client. The Vector Solutions name and logo are trademarks of Vector Solutions, and no right or license is granted to Client to use them.

4.2. Except as otherwise agreed in writing or to the extent necessary for Client to use the Services in accordance with this Agreement, Client shall not: (a) copy the Vector Solutions Intellectual Property in whole or in part; (b) display, reproduce, create derivative works from, transmit, sell, distribute, rent, lease, sublicense, transfer, or in any way exploit the Vector Solutions Intellectual Property in whole or in part; (c) embed the Vector Solutions Intellectual Property into other products; (d) use any trademarks, service marks, domain names, logos, or other identifiers of Vector Solutions or any of its third party suppliers; or (e) reverse engineer, decompile, disassemble, or access the Vector Solutions Intellectual Property; (f) use the software or Services for any purpose that is unlawful; (g) alter or tamper with the Services and/or associated documentation in any way; (h) attempt to defeat any security measures that Vector Solutions may take to protect the confidentiality and proprietary nature of the Services; (i) remove, obscure, conceal, or alter any marking or notice of



proprietary rights that may appear on or in the Services and/or associated documentation; or (j) except as permitted by this Agreement, knowingly allow any individual or entity under the control of Client to access Services without authorization under this Agreement for such access.

4.3. Client hereby authorizes Vector Solutions to use Client's name, trademarks, or logos in promotional materials, press releases, advertising, or in other publications or websites, whether oral or written. Notwithstanding the foregoing, Vector Solutions acknowledges that Client alone shall own all rights, title and interest in and to Client's name, trademarks, or logos, and this Agreement does not convey to Vector Solutions any rights of ownership to the same.

## 5. TERM, TERMINATION, AND NOTICE.

5.1. Term. The term of this Agreement shall commence on the Effective Date, and will remain in full force and effect for the initial term ("**Initial Term**") indicated in Schedule A. Upon expiration of the Initial Term, this Agreement shall automatically renew under the same terms and conditions (each renewal a "**Renewal Term**"), unless notice is given in writing by either party of its intent to terminate the Agreement, at least sixty (60) days prior to the scheduled termination date. Upon expiration or early termination pursuant to Section 5.2 (Termination for Cause) below, Client's access to the Services may remain active for thirty (30) days (the "Expiration Period") solely for purpose of Vector Solutions' record keeping. Any access to or usage of the Services following the Expiration Period shall be deemed Client's agreement to a Renewal Term.

5.2. Termination for Cause. Either Party may terminate this Agreement, effective upon written notice to the other Party (the "**Defaulting Party**"), if the Defaulting Party materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within 30 days after receipt of written notice of such breach.

5.3. Notice. All required notices hereunder by either Party shall be given by personal delivery (including reputable courier service), fees prepaid, or by sending such notice by registered or certified mail return receipt requested, postage prepaid, and addressed as set forth on the last page of this Agreement. Such notices shall be deemed to have been given and delivered upon receipt or attempted delivery (if receipt is refused), as the case may be, and the date of receipt identified by the applicable postal service on any return receipt card shall be conclusive evidence of receipt. Either Party, by written notice to the other as above described, may alter the address for receipt by it of written notices hereunder.

## 6. Mutual Warranty and Disclaimers.

6.1. Mutual Representations and Warranty. Each party represents and warrants to the other Party that: (a) it is duly organized, validly existing, and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization; (b) it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under this Agreement; (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and (d) when executed and delivered by both parties, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

6.2. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. VECTOR SOLUTIONS DOES NOT WARRANT THAT THE USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. THE SERVICES AND ASSOCIATED DOCUMENTATION ARE PROVIDED "AS IS" AND VECTOR SOLUTIONS PROVIDES NO OTHER EXPRESS, IMPLIED, STATUTORY, OR OTHER WARRANTIES REGARDING THE SERVICES OR ASSOCIATED DOCUMENTATION. WORKPLACE, STUDENT, AND EMPLOYEE SAFETY ARE YOUR RESPONSIBILITY. THAT RESPONSIBILITY CANNOT BE DELEGATED AND VECTOR SOLUTIONS ACCEPTS NO SUCH DELEGATION. VECTOR SOLUTIONS WILL ASSIST YOU BY PROVIDING SPECIFIC SERVICES FOR WHICH YOU HAVE CONTRACTED.

6.2.1. Vector Solutions makes no promise that use of the Service will prevent sexual assault, alcohol or other drug abuse, sexual harassment, stalking, dating/domestic violence, bullying, or hazing from occurring, or that the Services will not offend some who use it. Vector Solutions will not be responsible for any costs, legal fees, or damages resulting from any claim made against Client by anyone who uses the Services.

6.3. Third Party Content. If Client uploads third-party content to the Vector Solutions platform, such third party content providers are responsible for ensuring their content is accurate and compliant with national and international laws. Vector Solutions is not and shall not be held responsible or liable for any third-party content or Client's use thereof. UNLESS STATED ELSEWHERE IN THIS AGREEMENT, THERE IS NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THIRD PARTY CONTENT ACCESSIBLE THROUGH THE SERVICES.

6.4 No employee or agent of Vector Solutions is authorized to make any warranty other than that which is specifically set forth herein. The provisions in any specification, brochure, or chart issued by Vector Solutions are descriptive only and are not warranties.

**7. LIMITATION ON LIABILITY. EXCEPT AS IT RELATES TO CLAIMS RELATED TO SECTION 8 (INDEMNIFICATION): (A) IN NO EVENT SHALL VECTOR SOLUTIONS BE LIABLE TO CLIENT, any affiliate, third party, OR CLIENT'S USERS, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR VECTOR SOLUTIONS' COMPLIANCE WITH COPPA; AND (B) THE TOTAL LIABILITY OF VECTOR SOLUTIONS FOR ANY AND ALL DAMAGES, INCLUDING, WITHOUT LIMITATION, DIRECT DAMAGES, SHALL NOT EXCEED THE AMOUNT OF THE TOTAL FEES ALREADY PAID TO VECTOR SOLUTIONS FOR THE PRECEDING TWELVE (12) MONTHS.**

7.1. VECTOR SOLUTIONS FURTHER EXPRESSLY DISCLAIMS ALL LIABILITY, REGARDLESS OF THE UNDERLYING LEGAL THEORY OR BASIS, FOR ANY AND ALL CLAIMS RELATED TO ANY EMPLOYEE'S OR NAMED USER'S PERSONAL OFFENSE, PERSONAL SAFETY, OR MENTAL HEALTH ARISING OUT OF OR IN CONNECTION WITH USE OF THE SERVICES.

7.2. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, UNDER NO CIRCUMSTANCES SHALL VECTOR SOLUTIONS BE LIABLE TO CLIENT, ANY AFFILIATE, ANY THIRD PARTY, OR CLIENT'S USERS FOR ANY CLAIM, CAUSE OF ACTION, DEMAND, LIABILITY, DAMAGES, AWARDS, FINES, OR OTHERWISE, ARISING OUT OF OR RELATING TO PERSONAL INJURY, DEATH, OR OTHER HARM CAUSED FROM USE OF OR RELIANCE ON THE CONTENT OF THE COURSES. CLIENT, ITS AFFILIATES, EMPLOYEES, CONTRACTORS, AGENTS, USERS, AND REPRESENTATIVES RELY ON THE CONTENT OF THE COURSES AT THEIR OWN RISK.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN TYPES OF DAMAGES SO, SOLELY TO THE EXTENT SUCH LAW APPLIES TO CLIENT, THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO CLIENT.

## **8. INDEMNIFICATION.**

8.1. Indemnification by Vector Solutions. Vector Solutions shall indemnify and hold Client harmless from any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney fees, arising out of or resulting from any third-party claim that any document, course, or intellectual property provided by or uploaded to Vector Solutions platform by Vector Solutions infringes or violates any intellectual property right of any person.

8.2. Indemnification by Client. To the extent not prohibited by applicable law, Client shall indemnify and hold Vector Solutions harmless from any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney fees, arising out of or resulting from any third-party claim that any document, course, or intellectual property provided by or uploaded to Vector Solutions platform by Client infringes or violates any intellectual property right of any person.

## **9. MISCELLANEOUS.**

9.1. Assignment. Neither Party may assign or delegate its rights or obligations pursuant to this Agreement without the prior written consent of the other, provided that such consent shall not be unreasonably withheld. Notwithstanding the foregoing, Vector Solutions may freely assign or transfer any or all of its rights without Client consent to an affiliate, or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets.

9.2. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Kentucky, without regard to the internal law of Kentucky regarding conflicts of laws. With respect to any suit, action or proceeding relating hereto, each party hereby irrevocably submits to the exclusive jurisdiction of the courts of competent jurisdiction located in Ft. Wright, Kentucky, and waives any objection thereto. The prevailing party to any dispute shall be entitled to reimbursement of its fees and costs from the other party. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION ARISING HEREUNDER.

9.2.1 Public Entity Governing Law. With respect Clients hereunder who are public entities, such as public schools and universities, and to the extent required by law, this Agreement shall be construed and enforced in accordance with the laws of the state in which the public entity Client is located.

9.3. Export Regulations. All Content and Services and technical data delivered under this Agreement are subject to applicable US and Canadian laws and may be subject to export and import regulations in other countries. Client agrees to comply strictly with all such laws and regulations and acknowledges that it has the responsibility to obtain such licenses to export, re-export, or import as may be required after delivery.

9.4. Force Majeure. In no event will either Party be liable or responsible to the other Party or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, (except for any obligations to make payments) when and to the extent such failure or delay in performing is due to, or arising out of, any circumstances beyond such Party's control (a "**Force Majeure Event**"), including, without limitation, acts of God, strikes, lockouts, war, riots, lightning, fire, storm, flood, explosion, interruption or delay in power supply, computer virus, governmental laws, regulations, or shutdown, national or regional shortage of adequate power or telecommunications, or other restraints.

9.5. No Waiver. No waiver, amendment, or modification of this Agreement shall be effective unless in writing and signed by the Parties.

9.6. Severability. If any provision of this Agreement is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect, but the remainder of this Agreement shall continue in full force and effect.

9.7. Survival. All provisions of this Agreement (including without limitation those pertaining to confidential information, intellectual property ownership, and limitations of liability) that would reasonably be expected to survive expiration or early termination of this Agreement will do so.

9.8. No Third-Party Beneficiaries. The Parties do not intend to confer any right or remedy on any third-party under this Agreement.

9.9. Purchase Orders. Client may issue a purchase order for its convenience only, it being agreed by the Parties that the terms and conditions of this Agreement shall control. Any terms or conditions included in a purchase order or similar document issued by Client that conflict with the terms and conditions of this Agreement will not apply to or govern the transaction resulting from the purchase order, unless both Parties expressly agree in writing to the particular conflicting term or condition, in which event the agreed term or condition will apply only with respect to that particular purchase order.

9.10. Entire Agreement. This Agreement represents the entire understanding and agreement between Vector Solutions and Client, and supersedes all other negotiations, proposals, understandings and representations (written or oral) made by and between Vector Solutions and Client. Client acknowledges and agrees that the terms of this Agreement are incorporated in, and are a part of, each purchase order, change order, or Schedule related to the provision of Services by Vector Solutions.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their authorized representatives as of the last date set forth below.

Scenario Learning, LLC D/B/A Vector Solutions

4890 W. Kennedy Blvd., Suite 300

Kenton County Schools

1055 Eaton Dr.



Tampa, FL 33609

Ft. Wright, KY 41017

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: John-Michael Larry

Printed Name:

Title: Account Management and Team Lead

Title:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Client Agreement/Schedule A

Date: 05-13-2021  
Pricing valid for 30 days.

### Client Information

<b>Client Name:</b> Kenton County Schools	
<b>Address:</b> 1055 Eaton Dr. Ft. Wright, Kentucky 41017	
<b>Primary Contact Name:</b>	<b>Primary Contact Phone:</b>

### Terms

<b>Effective Date:</b> 07-09-2021	<b>Initial Term (months):</b> 12
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### Invoicing Contact Information (Please fill in missing information)

<b>Billing Contact Name:</b> David Lloyd			
<b>Billing Address:</b> 1055 Eaton Dr. Ft. Wright, Kentucky 41017		<b>Billing Phone:</b> (859) 957-2645	
<b>Billing Email:</b> david.lloyd@kenton.kyschools.us	<b>PO#:</b>	<b>Billing Frequency:</b> Annual	<b>Payment Terms:</b> Net 30

### Annual Subscription Services

FOR TRAINING PRODUCTS ONLY: Additional Named Users added after the Effective Date shall be billed at the Full Per Named User Fee below, and such Additional Named Users shall become part of the minimum contracted Users through the end of the Initial Term.

Product	Description	Minimum Named Users	Annual Price Per User	Total
Employee Safety and Compliance Library		2289	\$6.00	\$13,734.00
Total:				\$13,734.00

**Grand Total (including Implementation & Training):** **\$13,734.00**

\*Total does not include any taxes that may apply. Any such taxes are the responsibility of the Customer.

Please note that this is not an invoice. An invoice will be sent within fourteen (14) business days.