

DATA SHARING AGREEMENT

This Data Sharing Agreement (“**DSA**”) is made as of _____, 20__ between Dayton Independent School Districts, with an address of 200 Clay Street, Dayton, KY 41074 (“**School**”) and **Partners For Change**, a Kentucky not for profit with a principal place of business at 1717 Dixie Highway, Suite 385, Covington, KY 41011 (“**Partners For Change**”), to reflect the parties’ Memorandum of Understanding (“**MOU**”) with regard to the Processing of School Data, including Personal Data, in accordance with the requirements of applicable data privacy laws and regulations. Capitalized terms used herein which are not defined below shall have the meanings set forth in the MoU. This DSA forms a part of and has been incorporated into the MoU.

1. DEFINITIONS

- A. “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
- B. “School Data” means aggregate, student-level, de-identified, and anonymized data, to the extent permitted by applicable law, made available to Partners For Change by School or which Partners For Change Processes on behalf of School in connection with the Services.
- C. “School Systems” means, collectively, the network, servers, hardware software and the equipment owned and/or used by School, including any associated attachments, features, accessories, peripherals, and cabling, and all additions to, modifications of, substitutions for, upgrades to, or enhancements to such network, servers, hardware software and equipment.
- D. “Personal Data” means any and all of the following information or data: (i) any information or data that can be used to directly or indirectly identify or locate an identified or identifiable person or entity or the activity, assets or health information of a person or entity, including, but not limited to, identifiers such as names, addresses, e-mail addresses, personal identification numbers (e.g. social security numbers).
- E. “Unidentified Student Level Data” may include student grade level, McKinney Vento, special education information, English learner information, foster care information, public housing information, gender, race, lunch status information, number of school absences unexcused, absence percentage, behavior referrals, math scaled scores, reading scaled scores, K-3 reading benchmark information, KSA state assessment scores, afterschool program attendance information, afterschool program family engagement data, mentoring program participation information, hours of certified instruction provided in afterschool programs, location data, online identifiers, account information, transactional information or history, credit/debit card numbers, credit report information, passwords, security codes, one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person, or (ii) any other personal information that is protected by applicable data privacy laws and regulations.

F. “Processing” or “Process” or “Processed” means any operation or set of operations that are performed on Personal Data whether or not by automated means.

G. “Services” means the services that Partners For Change shall provide under the MoU into which this DSA is incorporated.

H. “Sub-Processor” means any sub-processor engaged by Partners For Change.

2. COMPLIANCE WITH APPLICABLE DATA PRIVACY LAWS AND REGULATIONS

School and Partners For Change acknowledge that applicable data privacy laws and regulations must be observed in connection with the Services, and that certain security precautions must be taken to protect School Data. Accordingly, Partners For Change agrees to Process and transfer such data in accordance with the terms and provisions of this DSA. Partners For Change shall also comply with all applicable data privacy laws and regulations when Processing School Data under the MoU, including, but not limited to, the Family Educational Rights and Privacy Act (FERPA), the Kentucky Open Records Act (KORA), and the Kentucky Department of Education Data Governance Policy.

3. ACCESS, USE AND PROCESSING OF UNIDENTIFIED STUDENT LEVEL DATA

A. Partners For Change shall treat Unidentified Student Level Data as confidential information as provided for under the MoU. Partners For Change will not use or otherwise Process the School Data for any purpose other than those purposes designated in the MoU and this DSA and shall comply with School’s written instructions concerning the Processing of School Data provided to Partners For Change.

B. Partners For Change shall ensure that its personnel engaged in the Processing of Data are informed of the confidential nature of the Data, have received appropriate training on their responsibilities and have executed written confidentiality agreements.

C. Partners For Change shall take commercially reasonable steps to ensure the reliability of any Partners For Change personnel engaged in the Processing of Personal Data.

D. Partners For Change shall ensure that Partners For Change’s access to Data is limited to those personnel performing Services in accordance with the MoU.

E. Upon request, School shall provide to Partners For Change any and all scope-related data reasonably needed for the Services and program evaluation, in each case to the extent permitted by applicable law, including in aggregated, de-identified, or anonymized form, as applicable. Such data may include, by way of example, student survey data and results, benchmark data, KSA data, academic improvement data, reading and math outcomes, mentoring hours, participant outcome metrics, and grant-related outcomes tied to the scope of the Services.

4. NO RIGHTS TO PERSONAL DATA; CONFIDENTIALITY

A. School Data is and shall remain the sole and exclusive property of School to the fullest extent permitted by the laws of any relevant jurisdiction. Partners For Change shall maintain

School Data as strictly confidential and as required by applicable data privacy laws and regulations.

B. Partners For Change shall ensure that Partners For Change's directors, employees and contingent workers, and any relevant Partners For Change Affiliates and Sub-Processors: (a) are properly trained and at all times comply with applicable data privacy laws and regulations and the terms and conditions of this DSA, and (b) access the Personal Data only in accordance with applicable data privacy laws and regulations, this DSA, or otherwise as instructed in writing by School.

5. DATA STORAGE, SECURITY AND RETENTION

A. Partners For Change will implement all appropriate organizational and technical security measures in order to protect the School Data against unauthorized or unlawful processing or disclosure and against accidental loss, destruction or damage, including without limitation the measures specified in Schedule 1 of this DSA, and any additional measures which may be specified by School or otherwise required in order to comply with the law of any relevant jurisdiction. The technical and organizational measures implemented by Partners For Change shall ensure a strict logical or physical separation between School Data, Partners For Change's own data and data of other schools.

B. Partners For Change shall, to the extent legally permitted, promptly comply with any request from School to amend or delete School Data, and to the extent School cannot do so itself with commercially reasonable efforts in the time prescribed by applicable data privacy laws and regulations through use of the Services.

C. At all times while connected to School Systems infrastructure, Partners For Change will cause its employees and agents to make such connection using computing equipment having professional-quality virus/trojan/phishing and other malware protection software installed, with no older than the most recent software upgrade in place and the next to most recent data files installed, and will defend and indemnify School from losses and damages directly attributable to the action of such malware in School's system if having the proper versions installed would have reasonably resulted in interception, neutralization and/or quarantine of such malware.

6. ADDITIONAL REPRESENTATIONS AND WARRANTIES

A. Partners For Change represents and warrants that it shall not:

i. Retain, use or disclose School Data for any purpose other than for the purposes set out in the MoU and this DSA and as permitted under applicable data privacy laws and regulations.

ii. Sell School Data; and

iii. Combine School Data with Personal Data received from other entities except to the extent necessary to detect data security incidents or protect against fraudulent or illegal activity.

B. Partners For Change certifies, and will certify throughout the term of the DSA to comply with the provisions set forth in this DSA and all applicable obligations under applicable data privacy laws and regulations. Partners For Change shall promptly notify School in writing if it determines or reasonably suspects its inability to comply with its obligations set forth in this DSA. Upon any such notice to School, Partners For Change shall promptly cease all use of School Data hereunder, and School is entitled to suspend or terminate this DSA.

C. The terms in this Section 6 do not limit or reduce any other data protection commitments Partners For Change makes to School in this DSA.

7. TERMINATION

Once Processing of the School Data is no longer required for the purpose of this MoU, Partners For Change will return or securely destroy and/or delete, at School's discretion, all School Data in its possession together with any media and documents or copies thereof containing School Data, unless applicable data privacy laws and regulations require storage of such data. Partners For Change shall certify in writing that this has been done.

8. USE OF SUB-PROCESSORS IN DATA PROCESSING

A. Partners For Change may engage Sub-Processors listed in Schedule 2 of this DSA supporting Partners For Change's business operations to Process School Data, provided that Partners For Change shall ensure that:

- i. Such engagement is governed by a written contract; and
- ii. The subcontract requires the Sub-Processor(s) to comply with, in substance, the same data protection obligations, covenants, representations and warranties applicable to Partners For Change under the MoU (applicable to data protection) and the applicable data privacy laws and regulations.

9. NOTIFICATION OBLIGATIONS

Partners For Change shall without undue delay inform School of any ascertained, suspected or potential breaches in electronic or physical security at any of Partners For Change's facilities or systems or network of which it becomes aware that have concerned or could concern School Data in any way, including without limitation by compromising the security, confidentiality, integrity, or availability of School Data, which could lead to the accidental or unlawful destruction, loss, alteration, unauthorized acquisition, use or disclosure of, or access to, School Data.

10. LIABILITY

A. Partners For Change shall indemnify, defend, and hold harmless School and its board members, officers, employees, and agents from and against any third-party claims, actions, damages, liabilities, losses, costs, and expenses, including reasonable attorneys' fees, to the extent arising out of or resulting from Partners For Change's (i) breach of this DSA, (ii) violation of applicable law, or (iii) unauthorized use or disclosure of School Data.

B. School shall remain responsible for its own acts and omissions, but School shall not be required to indemnify, defend, or hold harmless Partners For Change or any other private entity.

C. Indemnification is contingent upon the indemnified party promptly providing written notice of a claim to the indemnifying party and providing reasonable cooperation to the indemnifying party, at the indemnifying party's expense, in connection with the defense and settlement of the claim; provided, however, that any failure or delay in providing such notice shall not relieve the indemnifying party of its obligations under this Section except to the extent the indemnifying party is materially prejudiced by such failure or delay.

11. APPLICABLE LAW AND JURISDICTION

This DSA and all obligations, rights and remedies of the parties with respect to this DSA shall be governed by and interpreted exclusively in accordance with the laws of the Commonwealth of Kentucky (without applying its conflict of laws principles). For the resolution of any disputes arising hereunder, Partners For Change and School each consent to the exclusive personal jurisdiction of the state and federal courts located in the Eastern District of Kentucky.

12. AMENDMENTS

This DSA may be amended or modified only by a written instrument executed by each of the parties, except that School may amend this DSA at its sole discretion upon notice to Partners For Change to the extent necessary to reflect any change in any applicable data privacy laws and regulations.

13. HIERARCHY

This DSA supersedes and modifies the terms and conditions of any agreement(s) which may exist between the parties, including the MoU and any prior executed DSAs, only to the extent such terms and conditions are inconsistent with those of this DSA. To the extent the terms of this DSA and any existing agreement(s) conflict with one another, the terms and conditions of this DSA shall control. All other terms and conditions of any existing agreement(s) remain in full force and effect in accordance with such terms and conditions.

IN WITNESS WHEREOF, the parties have executed, or caused to be executed by their duly authorized representatives, this DSA as of _____, 20__ intending that it thereby bind them to its terms.

[Signatures on Next Page]

Dayton Independent School District

By: _____

Name: _____

Title: _____

Partners For Change

By: _____

Name: _____

Title: _____

**Schedule 1: Description of Technical and Organizational
Measures**

Schedule 2: List of Sub-Processors

School has approved the list of sub-processors provided by Partners For Change at time of signing.