

**The City University of New York  
Data Transfer and Non-Disclosure Agreement**

This Data Transfer and Non-Disclosure Agreement (the "Agreement") is made as of May 17, 2017 (the "Effective Date"), by and between The City University of New York, having an address at 205 E. 42nd Street, New York, NY 10017 ("CUNY"), and DataKind, having an address at 156 5<sup>th</sup> Avenue, New York, NY 10010 ("Institution") on behalf of its employee JeanCarlo Bonilla ("Principal Investigator" and collectively with "Institution," the "Recipient") for Data that may be provided under the terms of this Agreement.

**1. Data.**

(a) The study data to be furnished by CUNY to Recipient consist of that data listed in Exhibit A to this Agreement (the "Data").

(b) CUNY retains ownership of the Data and all intellectual property rights therin. Recipient shall not use the Data or make, cause to be made, use or sell for any purpose, any product or other item using, incorporating or derived from the Data, other than for the permitted use set forth in Exhibits A and B to this Agreement. Recipient agrees that it will not apply or file for any intellectual property protection, including without limitation, copyright or patent protection, in any jurisdiction, for the Data or any patentable development or discovery resulting from its use of the Data, without the prior written approval of CUNY.

**2. Permitted Use.** Recipient shall use the Data solely for not-for-profit purposes by the Principal Investigator at the Institution as further described in Exhibits A and B to this Agreement ("Permitted Use"). Any other use of the Data is prohibited. For the avoidance of doubt, Recipient is prohibited from making any profit-making or commercial use of the Data, whether alone, in collaboration with any party, or through a contractor or agent. However, CUNY retains the unrestricted right to distribute the Data to others, whether commercial or noncommercial entities.

**3. Authorized Users.**

(a) Recipient shall limit access to the Data to the Principal Investigator and those individuals affiliated with and working within the Institution under the supervision of Principal Investigator who are listed on Exhibit C to this Agreement and have also accepted the terms of this Agreement (each a "Project Investigator" and collectively with the Principal Investigator, "Authorized Users"). Recipient shall refer to CUNY any request for access to the Data from anyone other than the Authorized Users.

(b) Recipient shall immediately notify CUNY if it becomes aware that any of the Authorized Users has failed to comply with the terms of this Agreement and/or has compromised the privacy and security of the Data. In such event, Recipient shall comply with Section 4(c) of this Agreement and CUNY, at its sole option, may immediately remove such user from the list of Authorized Users and immediately terminate such user's access to the Data.

(c) Except as permitted by this Section 3, Recipient shall not directly or indirectly disclose, distribute, or otherwise allow any third party to have access to any of the Data without such third party executing a data transfer and non-disclosure agreement with CUNY under the same terms, or terms at least as restrictive, as set forth in this Agreement. It is solely within CUNY's discretion to enter into such data transfer and nondisclosure agreement.

4. Safeguards and Notification.

(a) All transmissions of the Data shall be by secure electronic transfer.

(b) Recipient shall use appropriate administrative, technical and physical measures to safeguard and keep the Data confidential and secure, including without limitation:

(i) limiting access to the Data to Authorized Users;

(ii) storing the Data in secure files that are access-restricted through passwords and/or encryption known only to Authorized Users;

(iii) encrypting any personal computer, tablet, portable storage device, or other mobile storage tool used to store and/or transmit the Data, with the decryption key known only by Authorized Users;

(iv) when not in use, maintaining all hardcopy versions of the Data, as well as any personal computers, tablets, portable storage devices, and other mobile storage tools containing the Data, in locked cabinets, file drawers, or other secure locations at Recipient's or its Authorized Users' facilities, accessible only to Authorized Users, and not at an Authorized User's home or a third-party location;

(v) requiring that all hardcopy versions of the Data, as well as any personal computers, tablets, portable storage devices, and other mobile storage tools containing the Data, be used only in secure locations at Recipient's or its Authorized Users' facilities, accessible only to Authorized Users, and not at an Authorized User's home or a third-party location; and

(vi) establishing procedures to help ensure that the Data cannot be extracted from a computer mainframe, remote terminal, personal computer, tablet, portable storage device, or other mobile storage tool, by unauthorized individuals.

(c) Recipient shall promptly report in writing to CUNY any unauthorized or inadvertent use or disclosure of the Data by Recipient, an Authorized User or Recipient's other employees, representatives, agents and/or contractors in violation of this Agreement, including any remedial action taken by Recipient. Recipient shall make such report within three (3) business days after Recipient becomes aware of the unauthorized or inadvertent use or disclosure. Recipient shall cooperate with any investigation conducted by CUNY or its agents of any unauthorized use or inadvertent disclosure.

(d) Representatives of CUNY shall have the right to enter the premises of Recipient and to take such other steps to examine Recipient's use and security of the Data as are reasonably necessary to assess and ensure Recipient's compliance with this Agreement,

including compliance with applicable law and security protocols. Upon request by CUNY, Recipient will promptly provide access and respond to CUNY inquiries regarding privacy and security of the Data.

5. Publication.

- (a) Recipient shall not disclose any personally-identifiable information received pursuant to this Agreement in any draft or final publication.
- (b) Subject to the terms of this Agreement and consistent with the Permitted Use, Recipient may publish or publicly present information or results relating to the Data or studies conducted with the Data. However, in the event that Recipient should desire to make such a publication or presentation, it will provide CUNY with a copy of all manuscripts or abstracts reporting such information or results not less than thirty (30) days prior to publication or public presentation, for CUNY's review and written approval of such publishing or public presentation. Unless CUNY advises Recipient otherwise, Recipient agrees to acknowledge CUNY in all publications and presentations based on the use of the Data.

6. No Warranties; No License; Limitation of Liability.

- (a) THE DATA IS PROVIDED "AS IS" AND WITHOUT ANY WARRANTY EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR THAT THE USE OF THE DATA WILL NOT INFRINGE OR VIOLATE ANY PATENT, COPYRIGHT, TRADEMARK OR PROPRIETARY RIGHTS OF ANY THIRD PARTY.
- (b) NO LICENSE. Transmittal of the Data to Recipient shall not be deemed a sale of Data by CUNY and no other right or license is granted or implied as a result of the transfer of Data to Recipient.
- (c) In no event will CUNY be liable for any use or disclosure of the Data by Recipient, an Authorized User, Recipient's other employees, representatives, agents, and/or contractors, or for any claims, damages, losses, or liabilities, of whatsoever kind or nature, which may arise out of or in connection with the use or disclosure of the Data by Recipient, an Authorized User, or Recipient's other employees, representatives, agents, and/or contractors.
- (d) Recipient agrees to defend, indemnify, and hold harmless CUNY and its trustees, officers, employees, faculty, agents or representatives from any loss, claim, damage, or liability of any kind or nature, which may arise from or in connection with this Agreement or from Recipient's acceptance, use, storage or disposal of the Data, except loss, claims, damages, or liability arising directly from the gross negligence or willful misconduct of CUNY.

7. Compliance with Law. Recipient agrees to use the Data in compliance with all applicable federal, state and local laws, rules and regulations.

8. Termination of Agreement.

(a) This Agreement shall commence as of the Effective Date and shall terminate upon the earlier of: (a) completion of any research that is a Permitted Use, or (b) two years from the Effective Date, unless terminated earlier by mutual written consent of the parties or pursuant to section (b) or (c) below.

(b) Breach of a material provision of this Agreement by Recipient or an Authorized User (including without limitation failure of Recipient to abide by its obligations of security, confidentiality, limited use and/or nondisclosure) shall be grounds for termination of this Agreement for cause by CUNY. Upon becoming aware of such a breach of a material provision, CUNY may do one or more of the following:

(i) terminate this Agreement upon written notice to Recipient, provided Recipient has failed to satisfactorily cure the breach within thirty (30) days of Recipient's receipt of such notice of such breach;

(ii) immediately terminate this Agreement;

(iii) prohibit any Authorized User from obtaining access to the Data; and/or

(iv) use such other remedies as may be available to it under law or equity.

(c) Recipient may terminate this Agreement at any time upon notice to CUNY, provided, however, that such termination shall not affect in any way Recipient's obligations under this Agreement, the nature of which would continue beyond the termination of the Agreement. Such termination shall terminate Recipient's Permitted Use.

(d) Upon termination of this Agreement for any reason, Recipient shall immediately discontinue use of the Data and shall return or dispose of all the Data in any form as directed by CUNY, unless permission to retain the Data is specifically provided in writing by CUNY.

9. Notices: Any notice, request, instruction or other document relating to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid to you at:

Recipient:

156 5<sup>th</sup> Avenue, Suite 502, New York NY 10010  
Attn: Nicole Iden

and to CUNY at:

524 W 59<sup>th</sup> Street, Room 53202HH, New York NY 10019  
Attn: Dara Bryne

Should a change of address occur during the term of the Agreement, both parties agree to notify the other, in writing, of the new address.

10. Miscellaneous.

- (a) Recipient's obligations under this Agreement may not be assigned, subcontracted, or transferred without the prior written consent of an authorized representative of CUNY.
- (b) This Agreement, including its exhibits, all of which are incorporated herein, contains the entire understanding of the parties hereto, supersedes all previous oral or written understandings, representations, or agreements to the extent that they relate to the subject matter hereof, and may not be modified by either party unless such modification is in writing and signed by an authorized representative of each party.
- (c) Waiver by either party of a breach of any provision of, or right under, this Agreement shall not operate or be construed as a waiver of any other or subsequent breach of the same provision or right, or of any other provision or right under this Agreement.
- (d) If any provision of this Agreement, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision that can be given effect without the invalid provision or application, and to this end the provisions hereof shall be severable.
- (e) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

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(f) This Agreement is governed and construed in accordance with the laws of New York State, without regard to principles relating to conflicts of law, except where the Federal supremacy clause requires otherwise. The courts of the State of New York in New York County and the United States District Court for the Southern District of New York shall have exclusive jurisdiction over the parties hereto with respect to any dispute or controversy between them arising under or in connection with this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

**RECIPIENT**

**Institution**

By:



Name: JeanCarlo Bonilla  
Title: Dir. of Insights and Impact

While not a party to this Agreement, I acknowledge that I have read this Agreement and understand my obligations as an Institution employee and Authorized User:

**Principal Investigator**



Name: JeanCarlo Bonilla

**THE CITY UNIVERSITY OF NEW YORK**

By:



Name: Steven Titan  
Title: Vice President of Finance and Administration

## EXHIBIT A

### Description of Data:

The following data are made available for this study. All attempts have been made to ensure our students remain unidentifiable. Each record contains a study ID that does not identify the student in any way. Combinations of demographics also do not allow for possible identification of individual students.

Students in this study must be bachelor degree-seeking students and have surpassed 90 or more credit hours during one semester but no later than spring 2015. Additionally, these students must have begun in a cohort from fall 2005 to fall 2014. Students are then tracked by enrollment through year 8 or fall 2016, whichever comes first.

For those in the study, the following student level data are provided:

- Original cohort type (freshmen, transfer) and cohort begin date
- Student demographics at cohort start (sex, ethnicity, major, degree sought);
- Admissions scores (SAT, regents scores, initial skills testing statuses);
- Enrollment tracking by semester through fall of year 9 and academic year outcome through end of year 8;
- Semester data to include majors at start of the semester, beginning GPA, credits taken, completed, and passed, and ending GPA;
- Associates degrees awarded;
- Bachelor's degrees awarded.

All records from the cohort date onward include enrollments in or degrees earned at other CUNY schools.

For those students whose first bachelor's degree-seeking enrollment at John Jay College began as a new transfer, records of their enrollments at other CUNY schools prior to their transfer to John Jay are also provided.

Additionally, records may be requested from the Office of Financial Aid. The actual data are yet to be determined by DataKind. John Jay will ensure students remain unidentifiable by adding the Study ID and removing all identifiers from the financial aid data prior to transmission.

## **EXHIBIT B**

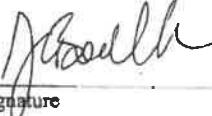
A description of initial data to be provided for purposes of this Agreement is set forth in Exhibit A. CUNY is providing the data, regarding certain bachelor degree-seeking students who have achieved 90 or more credit hours, so that Recipient can discover what questions might be addressed through its analysis of the data. Recipient will summarize those questions for CUNY's review and, upon agreement between CUNY and Recipient, a scope of work will be developed, agreed to, and Incorporated as Exhibit B.

**EXHIBIT C**  
**PROJECT INVESTIGATORS**

1. Each of the undersigned Project Investigators, in consideration of their use of the Data, agrees that:

- (a) s/he has read the Data Transfer & Non-Confidentiality Agreement from The City University of New York to which this Exhibit B is attached (the "Agreement") and the Permitted Use described in Exhibit A to that Agreement.
- (b) s/he is a "Project Investigator" and an "Authorized User" within the meaning of the Agreement.
- (c) s/he shall comply fully with the terms of the Agreement.

**PROJECT INVESTIGATOR:**

  
Signature \_\_\_\_\_ Date 5/18/17

JeanCarlo Bonilla \_\_\_\_\_ DataKind \_\_\_\_\_  
Typed Name Institution Affiliation

**PROJECT INVESTIGATOR:**

  
Signature \_\_\_\_\_ Date 5/18/2017

Michael Dowd \_\_\_\_\_ DataKind \_\_\_\_\_  
Typed Name Institution Affiliation

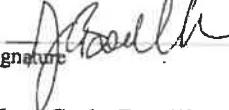
**PROJECT INVESTIGATOR:**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Typed Name \_\_\_\_\_ Institution Affiliation

2. The Principal Investigator agrees that the persons designated herein are Project Investigators and Authorized Users within the meaning of the Agreement.

**PRINCIPAL INVESTIGATOR:**

  
Signature \_\_\_\_\_ Date 5/18/17

JeanCarlo Bonilla \_\_\_\_\_ DataKind \_\_\_\_\_  
Typed Name Institution Affiliation

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## MUTUAL NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement is effective as of June 21, 2021, and is between The City University of New York ("CUNY") on behalf of John Jay College of Criminal Justice located at 524 W. 59<sup>th</sup> Street, New York, NY 10019, and DataKind, Inc., a corporation organized under the laws of the State of Delaware, with a mailing address of 419 McDonald Avenue, Suite 180184, Brooklyn, NY 11218 ("DataKind").

The parties wish to engage in discussions and/or activities related to examining with the objective of increasing the rates of community college graduates matriculating at, and ultimately graduating from, John Jay College, or other senior colleges across the CUNY system (the "Purpose") that may involve the disclosure of certain Confidential Information (as defined below). For purposes of this Agreement, a party disclosing Confidential Information shall be referred to as a "Discloser" and a party receiving Confidential Information shall be referred to as a "Recipient." As this is a reciprocal agreement, it is understood that a party may be both a Recipient and a Discloser, since it may both receive and disclose Confidential Information.

The parties agree as follows:

1. Confidential Information. Subject to Paragraph 2 below, "Confidential Information" shall mean all information and materials obtained from or disclosed to one party by the other party in connection with the Purpose in any form or medium, and all copies thereof, except for any such information that the Discloser designates to the Recipient in writing as excluded from Confidential Information. Without limitation, Confidential Information shall include all business, marketing, technical, scientific, financial or other information, data, concepts, ideas, proposals, specimens, know-how, source code, object code, data bases, files, methods of operation, research, inventions, customers, specifications, designs, plans, drawings, software, prototypes, and process techniques, of a party, whether furnished directly or indirectly by the Discloser to the Recipient, and whether disclosed in anticipation of this Agreement or after the date of this Agreement. "Confidential Information" shall also mean all analyses, compilations, studies or other documents prepared by the Recipient or its Representative (as defined in Paragraph 3), that contain or reflect the Confidential Information, as well as the existence and substance of any negotiations, agreements and/or business relationships between the parties, including with respect to the Purpose.
2. Exceptions. This Agreement imposes no obligation on the Recipient with respect to any item of Confidential Information to the extent that the Recipient can establish by legally sufficient evidence that such item of Confidential Information: (a) is or becomes part of the public domain other than through a breach of this Agreement; (b) is or was lawfully obtained by the Recipient from a third party under no obligation of confidentiality to the Discloser; (c) is known to the Recipient prior to disclosure by the Discloser; (d) is independently developed or discovered by the Recipient without reliance on the Discloser's Confidential Information; or (e) is required to be disclosed to comply with applicable law or legal process, provided that the Recipient gives the Discloser prior written notice of such required disclosure (to the extent legally permitted) and reasonable assistance if the Discloser wishes to contest the disclosure.
3. Obligation of Confidentiality. The Recipient shall maintain all Confidential Information disclosed to it by the Discloser in strict confidence. The Recipient shall treat such Confidential Information with at least the same degree of care that it would treat its own confidential information, and with no less than reasonable care. The Recipient shall limit access to such Confidential Information to those of the Recipient's directors, officers, employees, agents,

representatives, and advisors having a need to know such Confidential Information in order to carry out the Purpose ("Representatives"), provided that each such Representative is informed of the provisions of this Agreement prior to receiving any Confidential Information and agrees to be bound by them. The Recipient shall be responsible for any breach of this Agreement by its Representatives. Except as permitted by this Paragraph 3, the Recipient shall not directly or indirectly disclose, distribute, or otherwise allow any third party to have access to any Confidential Information of the Discloser without such third party executing a confidentiality and non-disclosure agreement with the Discloser under the same terms, or terms at least as restrictive, as set forth in this Agreement.

4. Ownership and Use. Confidential Information and all proprietary rights in or arising from Confidential Information (including without limitation trademark, trade secret, patent, copyright, mask work protection and all other intellectual property and personal property rights) shall be and remain the exclusive property of the Discloser. Except as expressly specified herein, Discloser does not license or otherwise convey any rights to use or reproduce any Confidential Information to the Recipient through this Agreement. The Recipient shall use the Confidential Information only for the Purpose, and shall not otherwise use or allow to be used, any Confidential Information, or derivative thereof arising from use of the Confidential Information, for its own benefit or the benefit of others. The Recipient shall not misappropriate, disassemble or reverse engineer in any manner, any portion of the Confidential Information; nor shall the Recipient file any patent application based on any portion of the Confidential Information, or otherwise attempt to assert any proprietary right in the Confidential Information, without explicit prior written approval of the Discloser.

5. Trademarks. Neither party shall use any name, logo or mark of the other party, or of its Representatives, without the written consent of that party.

6. No Warranty. The Discloser gives no representation or warranty of any kind with respect to the Confidential Information disclosed to the Recipient, including without limitation any representation or warranty as to its accuracy or completeness or with respect to the non-infringement of any intellectual property rights or other rights of third parties or the Discloser. The Discloser shall not have any liability or responsibility for errors or omissions in, or any decisions made by the Recipient in reliance on, any Confidential Information.

7. No Implied Obligations or Agency. Neither this Agreement nor the disclosure or receipt of Confidential Information shall constitute or imply any promise or intention to make any purchase of products or services or any commitment or representation with respect to the present or future development or marketing of any product or service by either party and shall not obligate either party to disclose Confidential Information to the other. Neither party is authorized to act for or on behalf of the other party under this Agreement. Each party is an independent contractor, and no principal/agent or partnership relationship is created between them by this Agreement.

8. Compliance with Laws. Each party shall comply with all applicable laws, rules and regulations, including without limitation The Family Educational Rights and Privacy Act (20 U.S.C.A. 1232g) regarding the confidentiality of CUNY student information.

9. Export Controls. It is CUNY's policy to remain fully compliant at all times with all U.S. export control regulations, including (but not limited to) the Export Administration Regulations; International Traffic in Arms Regulations; and embargo sanctions under the Office of Foreign Assets Control (OFAC). Therefore, in the event that the non-CUNY party to this Agreement

wishes to provide export controlled information to CUNY during the course of activity under this Agreement, that party shall first notify CUNY in writing of its intention to provide this data at least 30 days in advance of actually providing this information. CUNY will then determine whether it can or cannot accept such data as well as the conditions for such receipt if agreed upon, and will communicate its determination to the non-CUNY party. In the event that CUNY is not notified by the non-CUNY party that it intends to provide CUNY with information that is export controlled, and such information is in fact provided to CUNY, then CUNY shall assume that such information is not export controlled, absent any other information to the contrary.

10. Term and Termination. This Agreement shall remain in full force and effect for a period of three (3) years from the date hereof, unless terminated earlier on thirty (30) days written notice by one party to the other at the address set forth in this Agreement or at such other address that a party may hereafter give to the other in writing, it being understood that the notice shall be given to an officer of the other party. Any causes of action accrued on or before such expiration or termination shall survive the expiration of the applicable statute of limitations. All obligations of confidentiality, limited use and nondisclosure hereunder with respect to any item of Confidential Information shall expire five (5) years from the date of disclosure of such Confidential Information to the Recipient.

11. Return of Confidential Information. Upon the conclusion of the Purpose, or at any earlier time within fifteen (15) days of a written request from the Discloser, the Recipient shall either (a) return to the Discloser all originals, copies, and summaries of the Confidential Information, as well as all notes, diagrams, analyses, compilations, studies and other tangible materials, in whatever media, containing or derived from any portion of the Confidential Information, or (b) at the request of the Discloser, destroy all such materials and provide written certification to the Discloser of the destruction.

12. Remedies. The parties acknowledge that a breach by the Recipient of its obligations of confidentiality, limited use and nondisclosure hereunder may result in irreparable harm to the Discloser for which remedies at law may be inadequate, and therefore such breach shall entitle the Discloser (in addition to any other rights and remedies available to it) to seek specific performance of Recipient's obligations hereunder and to seek immediate injunctive relief without having to post a bond.

13. Governing Law. This Agreement is governed and construed in accordance with the laws of New York State, without regard to principles relating to conflicts of law, except where the Federal supremacy clause requires otherwise. The courts of the State of New York in New York County and the United States District Court for the Southern District of New York shall have exclusive jurisdiction over the parties hereto with respect to any dispute or controversy between them arising under or in connection with this Agreement.

14. Miscellaneous.

(a) The terms and conditions herein constitute the entire understanding of the parties and supersede all communications, negotiations, arrangements and agreements, either oral or written, with respect to the subject matter hereof.

(b) No amendment or modification of this Agreement shall be valid or binding on the parties unless made in writing and signed by their duly authorized representatives.

(c) This Agreement shall be binding upon, inure to the benefit of and be enforceable by, the respective successors and assigns of the parties hereto.

(d) The rights and obligations of the parties under this Agreement may not be assigned, subcontracted, or transferred except with the prior written consent of an authorized representative of each party.

(e) Waiver by either party of a breach of any provision of, or right under, this Agreement shall not operate or be construed as a waiver of any other or subsequent breach of the same provision or right, or of any other provision or right under this Agreement.

(f) If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision that can be given effect without the invalid provision or application, and to this end the provisions hereof shall be severable.

(g) This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument. A facsimile or pdf copy of a signed counterpart shall be treated the same as a signed original.

15. Authority. Each party represents and warrants that the person executing this Agreement on its behalf has the right to execute this Agreement, and that such person binds that party to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date set forth below.

DataKind, Inc.

By: Russatta Buford

Name: Russatta Buford

Title: Interim Executive Director

The City University of New York  
on behalf of John Jay College of Criminal  
Justice

By: Derek Davis

Derek Davis  
CUNY General Counsel & Senior Vice  
Chancellor for Legal Affairs

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## Services Agreement

This Services Agreement (the “Agreement”) is made and entered into as of February 1, 2022 (the “Effective Date”), by and between DataKind, Inc., a corporation organized under the laws of the State of Delaware, with a mailing address of 271 Cadman Plz E Ste 2, Suite 24554, Brooklyn, NY 11202 (“DataKind”), and The City University of New York, a New York education corporation organized pursuant to Article 125 of the New York State Education Law, on behalf of John Jay College of Criminal Justice, having offices at 524 W 59th St, New York, NY 10019 (“Client”). Each of DataKind and Client is sometimes referred to in this Agreement as a “Party” and collectively as the “Parties.”

## RECITALS

WHEREAS, DataKind is a nonprofit organization that offers data science services to high impact social organizations; and

WHEREAS, Client wishes to receive certain professional services from DataKind, subject to and in accordance with terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Provision of Services. DataKind shall provide Client with certain data science and consulting services relating to Client’s business, as agreed upon by the Parties from time to time and detailed in a Statement of Work (the “SOW”) substantially in the form of SOW #1, which is agreed to by the Parties and attached hereto as Schedule A (collectively, the “Services”). Each SOW shall include a description of Services, a project schedule and milestones and all fees to be paid for such Services.

2. Term and Termination.

(a) This Agreement shall commence on the Effective Date and continue in effect until terminated as set forth hereunder. Provided that no SOWs are then in effect, this Agreement may be terminated by either Party for convenience upon written notice to the other Party. The term for any Services shall remain in effect until the termination date as set out in the applicable SOW.

(b) This Agreement and/or any SOW may be canceled and terminated by either Party upon the other Party’s material breach of any of the terms or conditions of this Agreement or the applicable SOW and failure to cure such breach within thirty (30) days after written notice thereof.

(c) In the event of termination of this Agreement as provided herein, all rights and obligations hereunder shall terminate on the effective date of such termination following notice as required above, except that the termination of this Agreement shall in no way relieve either Party from the obligation to pay the other Party any sums owing hereunder with respect to

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Services properly performed prior to the date of such termination. In addition, Sections 4, 7, 8 and 9 shall survive the expiration or earlier termination of this Agreement.

3.     Fees. No fees will be charged for the Services.

4.     Intellectual Property.

(a) DataKind shall be the sole and exclusive owner of all rights, title, and interest in and to all results and/or proceeds of the Services created and provided to Client by DataKind under this Agreement, together with all related information and/or intellectual property rights (the “Work Product”). The Work Product shall include, without limitation, any ideas, concepts, images, graphics, artwork, and any other information, data, materials and intellectual property developed or prepared by DataKind in connection with the Services. If any Work Product is deemed to be a “work-made-for-hire,” then Client hereby assigns to DataKind all of its right, title and interest in and to such Work Product. Client shall provide reasonable assistance to DataKind, at DataKind’s request (i) to perfect DataKind’s title in and to the Work Product, and (ii) where applicable, to enable DataKind or its nominee to obtain and maintain copyright, patent or other legal protection therefore anywhere in the world. For the avoidance of doubt, “Work Product” does not include any information, data, materials and/or intellectual property provided by Client to DataKind to assist DataKind with performing the Services (the “Client Content”), including, without limitation, any information, data, or materials provided by Client to DataKind under that Mutual Non-Disclosure Agreement between the parties dated June 21, 2021 (the “Mutual Non-Disclosure Agreement”). Client retains all rights to the Client Content and its use, including, to the extent that the Work Product contains Client Content, how the Work Product may be used by DataKind.

(b) DataKind hereby grants Client a non-exclusive, perpetual, royalty-free, paid-up license to any Work Product, with the right to grant sublicenses, to make, have made, use, sell, offer to sell, import, copy, distribute and modify such Work Product as necessary in connection with Client’s business.

(c) Client hereby grants DataKind a non-exclusive, royalty-free, paid-up license, during the term of this Agreement, to use the Client Content solely as necessary for DataKind to perform the Services, and not for any other purpose.

5.     Publicity. Client agrees that DataKind may issue press releases and make other public announcements or communications to third parties discussing its relationship with Client and the Services subject to the prior written approval of Client. DataKind agrees that Client may issue press releases and make other public announcements or communications to third parties discussing its relationship with DataKind and the Services subject to the prior written approval of DataKind.

6.     Representations and Warranties.

(a) DataKind hereby warrants, represents, and covenants to Client that DataKind has the right to enter into this Agreement and perform its obligations herein. DataKind further warrants, represents, and covenants to Client: (i) that DataKind and those acting on its behalf in performing the Services are expert in performing the Services referred to by this Agreement; (ii) that DataKind and those acting on its behalf in performing the Services are



licensed as may be required by all applicable authorities in the State of New York and the City of New York, as the case may be, to perform the Services and that all Services shall be performed in accordance with applicable law; and (iii) that DataKind and those acting on its behalf in performing the Services are not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list published by the New York State Office of General Services.

(b) Client hereby warrants, represents, and covenants to DataKind that Client has the right to enter into this Agreement and perform its obligations herein.

7. Confidentiality. The Purpose as defined by the Mutual Non-Disclosure Agreement effective as of June 21, 2021 (“MND”) is expanded to include the Services as defined by this Agreement. The Parties’ obligations with respect to confidentiality are set forth in the MND, which is incorporated herein by reference, in its entirety. Schedule B is a list of volunteers engaged by DataKind to perform the Services and bound by the MND, pursuant to paragraph 3 of the MND. DataKind shall, from time to time and as necessary, add individuals to Schedule B.

8. Liability: Indemnification.

(a) Subject to the availability of lawful appropriations and consistent with Section 8 of the New York State Court of Claims Act, Client shall hold DataKind, its parent companies, divisions, subsidiaries and affiliated divisions and companies, assigns, and the shareholders, directors, officers, employees, consultants and agents of the foregoing (the “DataKind Indemnified Parties”) harmless from and indemnify any DataKind Indemnified Party for any final judgment of a court of competent jurisdiction arising out of the actual or alleged infringement or misappropriation of any Client Content to the extent attributable to the negligence of Client or of its officers or employees when acting within the course and scope of their employment.

(b) DataKind assumes liability for, and shall indemnify, defend, protect, save and hold harmless Client, its parent companies, divisions, subsidiaries and affiliated divisions and companies, assigns, and the shareholders, directors, officers, employees and agents (excluding Client’s consultants and independent contractors) of the foregoing (the “Client Indemnified Parties”) from and against any third-party claims, actions or suits brought against any Client Indemnified Party, together with all related costs, liabilities, judgments, obligations, losses, penalties, expenses or damages (including, without limitation, legal fees and expenses) arising out of the actual or alleged infringement or misappropriation by any Work Product of any third party intellectual property right, unless such infringement is caused by any Client Content and would not have occurred but for such Client Content.

(c) EXCEPT TO THE EXTENT SET FORTH IN SUBSECTIONS 8(a) AND 8(b), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR ANY LOST PROFITS OR LOST REVENUE, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SERVICES OR THIS AGREEMENT.



9. Miscellaneous Provisions.

(a) Independent Contractor. DataKind shall render services as an independent contractor and nothing contained herein shall create any association, partnership, joint venture, employee or agency relationship between DataKind and Client. DataKind shall not subcontract or otherwise delegate any of its obligations hereunder, in whole or in part, without prior notification to Client of the subcontractor's name and contact information. DataKind understands and agrees that it is responsible for ensuring that any subcontractor complies with those requirements of this Agreement that apply to the services to be provided by the subcontractor, including but not limited to Sections 6(a) and 7. DataKind further understands and agrees that Client's approval of a particular subcontractor does not relieve DataKind of its responsibility and liability for performance of this Agreement.

(b) Entire Agreement; Amendment. Except for the Mutual Non-Disclosure Agreement, this Agreement shall constitute the entire understanding between the Parties with respect to the subject matter hereof, shall supersede any prior agreements between Client and DataKind with respect thereto, and may not be amended except by a writing signed by both Parties.

(c) Governing Law; Dispute Resolution. This Agreement, and all matters arising directly or indirectly from this Agreement, shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws rules applicable to contracts to be performed entirely within the State of New York.

(d) Counterparts. This Agreement may be executed in counterparts (which may be exchanged by facsimile), each of which shall be deemed an original, but which together shall constitute one and the same instrument.

(e) Severability. The illegality, invalidity, or unenforceability of such provision shall not in any manner affect or render illegal, invalid or unenforceable any other provision of this Agreement, and that provision, and this Agreement generally, shall be reformed, construed and enforced so as to most nearly give lawful effect to the intent of the parties as expressed in this Agreement.

(f) Conflicts of Interest. DataKind affirms that to the best of DataKind's knowledge there exists no actual or potential conflict between the Services and DataKind's business or financial interests, or those of any employee of DataKind, and no trustee, office, or employee of Client, or other director, officer, employee or person whose salary is payable in whole or in part from the treasury of the City of New York or the State of New York is directly or indirectly interested in this Agreement. Should this situation change during the term of this Agreement, DataKind shall promptly notify Client. Client reserves the right in its sole discretion to determine whether or not any of the interests required to be disclosed under this subsection 9(f) shall disqualify DataKind from performing the Services.

(g) NYS Appendix A. Appendix A: Standard Clauses for New York State Contracts ("Appendix A") is attached hereto, and its terms and conditions are hereby incorporated by reference. The term "State" in Appendix A includes the State of New York and The City University of New York, which is a "contracting agency" and "State agency" for

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purposes of Appendix A. If there is any conflict between Appendix A and the terms and conditions of this Agreement, the conflict shall be resolved by giving precedence to Appendix A.

IN WITNESS WHEREOF, each Party has, as of the Effective Date, caused this Agreement to be executed by its duly authorized representative.

**DataKind, Inc.**

By   
\_\_\_\_\_  
By \_\_\_\_\_

Name (printed): Caitlin Augustin

Title: Sr. Director, Product

Date of Signature:

**CLIENT**

By   
\_\_\_\_\_  
By \_\_\_\_\_

Name (printed): Daniel Dolan

Title: Director of Procurement

Date of Signature: 2/23/22



## **SCHEDULE A**

In partnership with John Jay College, DataKind will conduct the following activities:

1. Draft a project brief that provides guidelines and expectations on the project.
2. Conduct a project partner orientation in which DataKind will provide an overview on project process and the role and responsibilities of participants at a project partner.
3. When projects require volunteer teams, DataKind will conduct volunteer recruitment and orientation in order to resource the project appropriately.
4. Draft a project plan based on the project brief as well as the initial findings of our data audit. The project plan will include high level milestones with estimated dates for completion.
5. Conduct exploratory data analysis (EDA) based on the project plan and finalize the plan as appropriate based on this analysis.
6. Once the project is complete, DataKind will provide an insight report and presentation to the project partner. The project partner and DataKind will discuss the best format for the insight report and presentation. This may be in the form of a written report, a webinar, conference call, or powerpoint.

No fees are required in the provision of these services.

### **Introduction and Overview of Needs**

Community colleges or junior colleges across the United States offer many types of educational programs, including those that lead to degrees and certificates and that serve as job-entry educational experience, as well as associate degrees that prepare students for transfer to a four-year college where graduates can earn a bachelor's degree. This degree typically takes 2 years to achieve.

Senior colleges or universities provide students with a Bachelor's degree, which takes 4 years of full-time study to complete. Students who graduate from community colleges with an Associate's Degree can then transfer to senior colleges to work towards their bachelor's degree for an additional 4 years. As a result, it will take students 6 years to complete both their Associate's and Bachelor's degree.

John Jay College of Criminal Justice (JJC) – a senior college of The City University of New York (CUNY) – has evolved into the preeminent international leader in educating for justice in its many dimensions. The College offers a rich liberal arts and professional curriculum that prepares students to serve the public interest as ethical leaders and engaged citizens. The College is dedicated to educating traditionally underrepresented groups and committed to increasing diversity in the workforce. With a community of over 15,000 students, in an array of undergraduate, graduate and doctoral programs, John Jay College is the most diverse among the City University of New York's senior colleges. The student body – 60% female 40%

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Hispanic and 25% African American — today produces leaders, scholars and heroes in policing and beyond, including forensic science, law, fire and emergency management, social work, teaching, private security, forensic psychology and corrections.

## The Challenge

Across the United States, 4-year graduation rates for transfer students who move from community college to a senior (4 year) institution are poor. Data from the American Institutes for Research shows that only about 60% of college students graduate from four-year colleges and universities within six years<sup>1</sup>. Additionally, the longer students stay in a community college, the less likely they are to transfer to a 4 year university, therefore blocking their academic path to graduating with a degree from a senior institution.

While John Jay College has the highest transfer graduation rate of any NYC higher education institution (in and outside of the CUNY system), identifying individuals who could benefit from an intervention to support their academic path to increase student graduation rates is time consuming and resource intensive.

Currently, no data pipeline or tool exists to provide student-level information on the junior to senior college transfer program, where the students come from (i.e. which community college), and where they might need additional support in order to graduate from the 4 year program within 6 years.

## The Opportunity

DataKind would like to work in partnership with the John Jay College (JJC) team to use students' information prior to and after transferring to John Jay College in order to predict which transfer students are most at risk of not graduating. John Jay will, in turn, offer these students additional support toward completing their degrees, enabling the solid foundation of a Bachelor's Degree to strengthen their stability and future economic well being.

Specifically, the tool will aim to generate data driven insights into which students might be at highest risk of not completing their degree, and when the intervention(s) would need to take place (e.g., the semester before they transfer, the summer before, throughout the first academic year at JJC etc.). The specific nature of the intervention(s) taken is not in scope of this project, and will be addressed by the subject-matter experts within JJC, based in part on already existing and successful intervention programs at JJC.

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<sup>1</sup> Source:

<https://www.communitycollegereview.com/blog/the-catch-22-of-community-college-graduation-rates>

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## DataKind Problem Statement

Using student demographic and enrollment information from 2005 - 2021, student performance information prior to enrollment at John Jay, and student performance information after enrollment at John Jay College, DataKind aims to create a model that will provide the John Jay team (academic advisors, financial aid counselors) with data-driven information to identify transfer students who have defined risk characteristics so that they can receive direct support to help ensure their academic success.

The model will generate the probability of a transfer student not completing their degree (with an emphasis on completion within six years) based on historical data provided and machine learning algorithms, and will also provide recommendations on when this risk is highest (e.g., semester or summer pre-transfer, first transfer semester etc.). This will allow the CUNY team to directly support students most at-risk of not graduating, ensuring that transfer students from associates programs will graduate from John Jay College's baccalaureate programs within the prescribed 6 years.

## Background and Context: Previous DataKind Partnership

DataKind previously partnered with John Jay College at CUNY to build a predictive model using John Jay's data to identify students with advanced standing who are at risk of dropping out. Leveraging historical student data, the DataKind DataCorps team used statistical analysis and machine learning to understand and identify factors that may affect students' decisions to drop out after having completed 90 credits (75 percent of the credits needed to earn a degree) [see previous project plan here, the final project presentation video here, and the final project presentation deck here].

For each student with a given set of characteristics recorded in the data, the model computed a dropout risk score. This allowed the John Jay administration to identify students with a high risk of dropping out early on. The statistical analysis also revealed student characteristics that are most likely to be associated with the decision to drop out. This analysis helped inform the design of effective interventions for the population of students at risk to help reduce dropout and improve graduation rates.

This model is at the heart of the JJC's Completion for Upper-division Student Program (CUSP). 5 years after the kick start of the intervention, 4-year graduation rates are 41% for the first time in college history. At the start of this project, graduation rates were closer to 25%.

The existing model is currently being run effectively by a small team, using Jupyter notebooks. This process involves data extraction from source-systems, data wrangling in non-project-controlled SAS scripts, execution of the project code in notebooks, and the further SAS (or other language) work to prepare the outputs for use by the team. Some or all of this pipe

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could be consolidated into a robust data pipeline within this project, for either the transfers or for all student types.

Further understanding and reviewing the way in which this CUSP tool is used and the general approach to its implementation will be necessary to build a similarly sustainable product generating risk scores for transfer students specifically.

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## **SCHEDULE B**

DataKind has engaged the following volunteers for this project:

- Jay Shah
- Anuja Mahashabde
- Shreyash Suryawanshi
- Kaveri Nadhamuni
- Prakrit Baruah
- Khizer Asad
- Moiz Ali
- Felicia Edwards

## **APPENDIX A**

### **STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

**PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.**

## **STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract

through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a

building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights

shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not

have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

## **12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group

members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business  
Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the

documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

## **21. RECIPROCITY AND SANCTIONS PROVISIONS.**

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

## **22. COMPLIANCE WITH BREACH NOTIFICATION AND**

**DATA SECURITY LAWS.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

## **23. COMPLIANCE WITH CONSULTANT DISCLOSURE**

**LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the

requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

## **25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:  
<https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the

above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT.**

Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.



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## Services Agreement

This Services Agreement (the “Agreement”), effective as of September 6, 2023 (the “Effective Date”), is by and between DataKind, Inc., a corporation organized under the laws of the State of Delaware, with a mailing address of 271 Cadman Plz E, Unit 24554, Brooklyn, NY 11202 (“DataKind”), and the City University of New York on behalf of John Jay College of Criminal Justice, a body corporate established and existing pursuant to Article 125 of the Education Law of the State of New York, having offices at 524 West 59<sup>th</sup> Street, New York, NY 10019 (“Client”). Each of DataKind and Client is sometimes referred to in this Agreement as a “Party” and collectively as the “Parties.”

### RECITALS

WHEREAS, DataKind is a nonprofit organization that offers data science services to high impact social organizations; and

WHEREAS, Client wishes to receive certain professional services from DataKind, subject to and in accordance with terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Provision of Services. DataKind shall provide Client with certain data science and consulting services relating to Client’s business, as detailed in a Statement of Work (the “SOW”), which is agreed to by the Parties and attached hereto as Schedule A (collectively, the “Services”) and may be amended from time to time in writing by the mutual agreement of the Parties. The SOW shall include a description of Services, a project schedule and milestones and all fees to be paid for such Services.

2. Term and Termination.

(a) This Agreement shall commence on the Effective Date and continue in effect until terminated as set forth hereunder. Provided that no SOWs are then in effect, this Agreement may be terminated by either Party for any reason upon provision of 30 days of written notice to the other Party. The term for any Services shall remain in effect until the termination date as set out in the applicable SOW.

(b) This Agreement and/or any SOW may be canceled and terminated by either Party upon the other Party’s material breach of any of the terms or conditions of this Agreement or the applicable SOW and failure to cure such breach within thirty (30) days after written notice thereof.

(c) In the event of termination of this Agreement as provided herein, all rights and obligations hereunder shall terminate on the effective date of such termination following notice as required above, except that the termination of this Agreement shall in no way relieve either Party from the obligation to pay the other Party any sums owing hereunder with respect to Services properly performed prior to the date of such termination. In addition, Sections 4, 7, 8 and 9 shall survive the expiration or earlier termination of this Agreement.



3. Fees. No fees will be charged for these services.

4. Intellectual Property.

(a) In support of our charitable mission, DataKind shall be the sole and exclusive owner of all rights, title, and interest in and to all results and/or proceeds of the Services provided to Client under this Agreement, together with all related information and/or intellectual property rights (the “Work Product”). The Work Product shall include, without limitation, any ideas, concepts, images, graphics, artwork, and any other information, data, materials and intellectual property developed or prepared in connection with the Services. If any Work Product is deemed to be a “work-made-for-hire,” then Client hereby assigns to DataKind all of its right, title and interest in and to such Work Product. Client shall perform all lawful acts requested by DataKind (i) to perfect DataKind’s title in and to the Work Product, and (ii) where applicable, to enable DataKind or its nominee to obtain and maintain copyright, patent or other legal protection therefore anywhere in the world. For the avoidance of doubt, “Work Product” does not include any information, data, materials and/or intellectual property provided by Client to DataKind to assist DataKind with performing the Services (the “Client Content”), including, without limitation, any information, data, or materials provided by Client to DataKind under the Mutual Non-Disclosure Agreement between the parties dated DATE (the “Mutual Non-Disclosure Agreement”). Client retains all rights to the Client Content and its use, including, to the extent that the Work Product contains Client Content, how the Work Product may be used by DataKind.

(b) DataKind hereby grants Client a non-exclusive, perpetual, royalty-free, paid-up license to any Work Product, with the right to use such Work Product as necessary in connection with Client’s business. To the extent requested by DataKind, Client shall indicate or otherwise acknowledge the ownership by DataKind in connection with Client’s use of any Work Product pursuant to this Section 4(b).

(c) Client hereby grants DataKind a non-exclusive, royalty-free, paid-up license, during the term of this Agreement, to use any content or other materials provided by Client in connection with the Services (the “Client Content”) as necessary for DataKind to perform the Services and not for any other purpose.

5. Publicity. Client agrees that DataKind may issue press releases and make other public announcements or communications to third parties discussing its relationship with Client and the Services subject to the prior written approval of Client. DataKind agrees that Client may issue press releases and make other public announcements or communications to third parties discussing its relationship with DataKind and the Services subject to the prior written approval of DataKind.

6. Representations and Warranties.

(a) DataKind hereby warrants, represents, and covenants to Client that DataKind has the right to enter into this Agreement and perform its obligations herein. DataKind further warrants, represents, and covenants to Client: (i) that DataKind and those acting on its behalf in performing the Services are expert in performing the Services referred to by this Agreement; (ii) that DataKind and those acting on its behalf in performing the services are licensed as may be required by all applicable authorities in the State of New York and the City of New York, as the case may be, to perform the Services and that the Services shall be performed in accordance with applicable law; and (iii) that DataKind and those acting on its behalf in performing the Services are not on the “Entities Determined To Be Non-



Responsive Bidders/Offerers Pursuant To The New York State Iran Divestment Act of 2012" list published by the New York State Office of General Services.

(b) Client hereby warrants, represents, and covenants to DataKind that Client has the right to enter into this Agreement and perform its obligations herein.

7. Confidentiality. The Purpose as defined by the Mutual Non-Disclosure Agreement effective as of DATE (the "Mutual Non-Disclosure Agreement") is extended to include the Services as defined by this Agreement. The Parties' obligations with respect to confidentiality are set forth in (the "Mutual Non-Disclosure Agreement"), which is incorporated herein by reference, in its entirety. Schedule B is a list of volunteers engaged by DataKind to perform the Services and bound by the MNDA, pursuant to paragraph 3 of the MNDA. DataKind shall, from time to time and as necessary, provide written updates adding individuals to Schedule B.

8. Liability; Indemnification.

(a) Subject to the availability of lawful appropriations and consistent with Section 8 of the New York State Court of Claims Act, Client shall hold DataKind, its parent companies, divisions, subsidiaries and affiliated divisions and companies, assigns, and the shareholders, directors, officers, employees, consultants and agents of the foregoing (the "DataKind Indemnified Parties") harmless from and indemnify any DataKind Indemnified Party for any DataKind Indemnified party for any final judgment of a court of competent jurisdiction arising out of the actual or alleged infringement or misappropriation of any Client Content to the extent attributable to the negligence of Client or of its officers or employees when acting within the course and scope of their employment.

(b) DataKind assumes liability for, and shall indemnify, defend, protect, save and hold harmless Client, its parent companies, divisions, subsidiaries and affiliated divisions and companies, assigns, and the shareholders, directors, officers, employees and agents (excluding Client's consultants and independent contractors) of the foregoing (the "Client Indemnified Parties") from and against any third-party claims, actions or suits brought against any Client Indemnified Party, together with all related costs, liabilities, judgments, obligations, losses, penalties, expenses or damages (including, without limitation, legal fees and expenses) arising out of the actual or alleged infringement or misappropriation by any Work Product of any third party intellectual property right, unless such infringement is caused by any Client Content and would not have occurred but for such Client Content.

(c) EXCEPT TO THE EXTENT SET FORTH IN SUBSECTIONS 8(a) AND 8(b), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR ANY LOST PROFITS OR LOST REVENUE, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SERVICES OR THIS AGREEMENT.

9. Miscellaneous Provisions.

(a) Independent Contractor. DataKind shall render services as an independent contractor and nothing contained herein shall create any association, partnership, joint venture, employee or agency relationship between DataKind and Client. DataKind shall not subcontract or otherwise delegate any of its obligations hereunder, in whole or in part, without prior notification to



Client of the subcontractor's name and contact information. DataKind understands and agrees that it is responsible for ensuring that any subcontractor complies with those requirements of this Agreement that apply to the services to be provided by the subcontractor, including but not limited to Sections 6(a) and 7. DataKind further understands and agrees that Client's approval of a particular subcontractor does not relieve DataKind of its responsibility and liability for performance of this agreement.

(b) Entire Agreement; Amendment. Except for the Mutual Non-Disclosure Agreement, this Agreement shall constitute the entire understanding between the Parties with respect to the subject matter hereof, shall supersede any prior agreements between Client and DataKind with respect thereto, and may not be amended except by a writing signed by both Parties.

(c) Governing Law; Dispute Resolution. This Agreement, and all matters arising directly or indirectly from this Agreement, shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws rules applicable to contracts to be performed entirely within the State of New York.

(d) Counterparts. This Agreement may be executed in counterparts (which may be exchanged by facsimile), each of which shall be deemed an original, but which together shall constitute one and the same instrument.

(e) Severability. The illegality, invalidity, or unenforceability of such provision shall not in any manner affect or render illegal, invalid or unenforceable any other provision of this Agreement, and that provision, and this Agreement generally, shall be reformed, construed and enforced so as to most nearly give lawful effect to the intent of the parties as expressed in this Agreement.

(f) Conflicts of Interest. DataKind affirms that to the best of DataKind's knowledge there exists no actual or potential conflict between the Services and DataKind's business or financial interests, or those of any employee of DataKind, and no trustee, officer, or employee of Client, or other director, officer, employee or person whose salary is payable in whole or in part from the treasury of the City of New York or the State of New York is directly or indirectly interested in this agreement. Should this situation change during the term of this Agreement, DataKind shall promptly notify Client. Client reserves the right in its sole discretion to determine whether or not any of the interests required to be disclosed under this subsection 9(f) shall disqualify DataKind from performing the Services.

(g) NYS Appendix A. Appendix A: Standard Clauses for New York State Contracts ("Appendix A") is attached hereto, and its terms and conditions are hereby incorporated by reference. The term "State" in Appendix A includes the State of New York and The City University of New York, which is a "contracting agency" and "State agency" for purposes of Appendix A. If there is any conflict between Appendix A and the terms and conditions of this Agreement, the conflict shall be resolved by giving precedence to Appendix A.

IN WITNESS WHEREOF, each Party has, as of the Effective Date, caused this Agreement to be executed by its duly authorized representative.



DataKind, Inc.

By Caitlin Augustin

Name (printed): Caitlin Augustin

Title: Vice President, Product & Programs

Date: 9/25/23

**CLIENT**

By Mark Flower

Name (printed): Mark Flower

Title: VP & COO

Date: 09/11/2023



## SCHEDULE A

DataKind will work with John Jay College to further develop the tools to support targeted interventions to increase 6 year graduation rates for students at the College.

DataKind will conduct the following activities with John Jay College:

- *Planning*
  - Hold scoping conversations to discuss implementation contexts at the College to narrow in on the unique needs of the College
- *Development*
  - Representatives from the implementing team at John Jay College:
    - Consult on methodology and implementation and discuss project insights at regular meetings with the DataKind development and product teams (cadence TBD depending on each team's availability and needs)
    - Take part in user interviews in the effort to develop a “no code” front end user interface and user experience
    - Test components of the tooling on an ongoing basis
- *Launch & implementation*
  - John Jay College implementation team tests the application for use and implementation using materials developed by DataKind in consultation with the College
  - Implementing team(s) meet with DataKind for training on tool use and feedback on implementation materials (i.e. user guide, development documentation, etc)
- *Wrap-up*
  - Collaborate with DataKind on a public tool announcement (ie public event, press release, other public facing materials)

No fees are required in the provision of these services.

DataKind commits to hosting and maintaining this solution for two years after the 14-month life of the grant and product development timeline.

## **APPENDIX A**

# **STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

**PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.**

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## **STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the

Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-

a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the

agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of

\$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The

contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and

women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

**22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT.** Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.