PROFESSIONAL SERVICES AGREEMENT
BETWEEN
ROCK ISLAND-MILAN SCHOOL DISTRICT 41
AND
LIFTING UP, LLC dba knowtifyED

This Services Agreement (the "Agreement") is made and entered into by and between the Board of Education of Rock Island-Milan School District 41 (the "District" or "Board") and Lifting Up, LLC ("Contractor") (collectively referred to as the "Parties").

AGREEMENT

NOW, THEREFORE, Contractor and the District agree as follows.

1. SCOPE OF AGREEMENT

1.1. **Statement(s) of Work.** This Agreement serves as the master agreement between Contractor and the District with respect to the Services: delivery of notifications, and access to the Website. The attached Statement of Work (Exhibit A) contains details relating to implementing the Services and Support outlined in this Agreement. In the event of a conflict between this agreement and the Statement of Work, the Statement of Work shall control.

1.2. **Representations of Contractor.** The Contractor represents that it is sufficiently experienced and competent to perform the Services in a manner consistent with the standards of professional practice by recognized consultants providing services of a similar nature.

1.3. **Independent Contractors.** Contractor's relationship with the District will be that of an independent contractor, and nothing in this Agreement should be construed as creating a partnership, joint venture, or employer-employee relationship. Contractor will have sole discretion to determine the manner, method, and means of performing the Services.

2. SERVICE AND SUPPORT

2.1. **Services.** The District shall engage the Contractor to perform certain services ("Services"). Contractor will be provided with student directory data as outlined in the Statement of Work, as referenced above, in the form of a csv file (the "Student Data") on an ongoing, daily basis during the term of this Agreement. Contractor will process this data and data provided by first responder agencies ("First Responder Agency Data"), as such agencies are selected and authorized by the District, such as police, fire, and EMS responders (each, a "First Responder Agency"), to identify any students within the District who have had contact with a First Responder Agency. Upon identifying a match between the student data provided by the District and the data provided by the first responder agency, Contractor provides a notification of such match to the District ("Notifications") and the ability to review those matches on a website maintained by or on behalf of Contractor (the "Website"), in order to assist the District in its endeavor to provide students with additional social-emotional and trauma-responsive supports. Contractor will identify the student via Student ID, but will not provide the District with any details regarding the circumstances that generated the Notification. The identity of the student matched with first responder agency activity will also constitute Student Data. Contractor will

not share with law enforcement any data obtained from the District without prior written consent from the District's Superintendent or their designee.

2.2. **Provision of the Services.** Subject to the terms of this Agreement, Contractor hereby grants to the District a non-exclusive, non-transferable right to access the features and functions of the Services via the Website during the Service Term (as defined in Section 8.1), solely for the number of individual employees, agents, or contractors of the District authorized to access or use the Services as identified in the Statement of Work (each, an "Authorized End User"). Each Authorized End User will be required to sign up for an account, select a password and username ("User ID"), and agree to the terms and conditions of the Website, which may be updated from time to time by Contractor by providing prior written notice to the District. The District has the right to terminate the Agreement without penalty in the event of any material change to terms and conditions. The District shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by the District, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by the District. The District shall endeavor to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User's use of the Services and shall endeavor to cause Authorized End Users to comply with such provisions. Contractor may use the services of one or more third parties to deliver any part of the Services and/or access to the Website, including without limitation using a third party to host the Website. Contractor hereby assigns to the District any warranties that Contractor receives from its first responder service providers to the extent that such warranties can be assigned.

2.3. **Usage Restrictions.** The District will not knowingly, and will not knowingly permit any Authorized End Users to, (i) copy or duplicate any of the Contractor IP (as defined in Section 5.1); (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of any of the Contractor IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Contractor IP, or attempt to do any of the foregoing, and the District acknowledges that nothing in this Agreement will be construed to grant the District any right to obtain or use such source code; (iii) modify, alter, tamper with or repair any of the Contractor IP, or create any derivative product from any of the foregoing, or attempt to do any of the foregoing, except with the prior written consent of Contractor; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Contractor IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Contractor IP; or (vi) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, the District's rights under Section 2.1.

2.4. **Suspension.** Notwithstanding anything to the contrary in this Agreement, Contractor may temporarily suspend the District's and any Authorized End User's access to any portion or all of the Contractor IP if (i) Contractor reasonably determines that (a) there is a threat or attack on any of the Contractor IP; (b) the District's or any Authorized End User's use of the Services disrupts or poses a security risk to the Services or any other customer or vendor of Contractor; (c) the District or any Authorized End User is/are using the Contractor IP for fraudulent or illegal activities; (d) Contractor's provision of the Services to the District or any Authorized End User is prohibited by applicable law; or (e) any vendor of Contractor has

suspended or terminated Contractor's access to or use of any third party services or products required to enable the District to access the Website for legitimate cause (each such suspension, in accordance with this Section 2.4, a "Service Suspension"). Contractor will make commercially reasonable efforts, circumstances permitting, to provide written notice of any Service Suspension to the District (including notices sent to Contractor's registered email address) and to provide updates regarding resumption of access to the Contractor IP following any Service Suspension. Contractor will use commercially reasonable efforts to resume providing access to the Contractor IP as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Contractor will have no liability for any damage, liabilities, losses (including any loss of data or profits) or any other consequences that the District or any Authorized End User may incur as a result of a rightful Service Suspension. To the extent that the Service Suspension is not caused by the District's direct actions or by the actions of parties associated with the District, the expiration of the Service Term will be tolled by the duration of any suspension (for any continuous suspension lasting at least one full day).

2.5. **Support Services.** Subject to the payment of undisputed fees, Contractor shall monitor the performance and functionality of the Services. Subject to the terms of this Agreement, Contractor will provide the District with reasonable technical support and maintenance services. Contractor will use commercially reasonable efforts to respond to requests for support.

2.6. **Conditions Precedent.** As a condition precedent to Contractor providing the Services, access to the Website and Notifications, and the District's payment obligation, the District shall enter into an agreement with one or more First Responder Agency for the delivery of First Responder Agency Data to Contractor in a form that is acceptable to Contractor as reasonably necessary to perform the Services. Contractor makes no representations or warranties with respect to the accuracy or completeness of the First Responder Agency Data.

2.7. **Service Uptime.** Contractor products or services are generally available 24 hours per day, 7 days per week. Contractor shall ensure 99.5% up-time, Monday through Friday between 6:00am and 6:00pm US Central Time ("Uptime"). Uptime shall not be reduced by unavailability resulting from (i) scheduled maintenance for which Contractor provides advance notice under Section 9.1, or unscheduled emergency maintenance not exceeding four (4) hours in any calendar month; (ii) the acts or omissions of the District, its Authorized End Users, or any First Responder Agency, including any delay or failure in the delivery of District Data or First Responder Agency Data; (iii) outages or failures of third-party hosting, telecommunications, or internet service providers, including Amazon Web Services, that are beyond Contractor's reasonable control; or (iv) any other cause beyond Contractor's reasonable control. Where Up-time percentage averages less than 99.5% in a calendar month, the District shall have the right to terminate the Agreement immediately upon written notice to Contractor and shall be entitled to a refund of the District's fees paid for the services, as depreciated on a straight-line basis over a 12-month period commencing on the date the District first had access to the services through the date of termination. The termination right and refund provided in this Section 2.7 are the District's sole and exclusive remedy for any failure to meet the Uptime commitment.

3. PAYMENT OF FEES

3.1. **Fees.** Contractor shall receive payment of fees as set forth in the Statement of Work (the "Fees") to be paid in accordance with the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1 et seq. If the District believes that Contractor has billed the District incorrectly, the District shall contact Contractor in order to receive an adjustment or credit.

3.2. **Invoicing.** Contractor may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be paid in accordance with the Illinois Local Government Prompt Payment Act. Unpaid amounts, which are not disputed, are subject to a finance charge at the rate pursuant to the Illinois Local Government Prompt Payment Act. The District acknowledges and agrees that it shall be responsible for securing funding for payment of the Fees, and the expiration or termination of any grants intended for payment of the Fees will not relieve the District's obligations under this Agreement; provided that Contractor will provide such assistance reasonably requested by the District in applying for and receiving funding or other grants for the purpose of paying the Fees.

4. RESTRICTIONS AND RESPONSIBILITIES OF THE DISTRICT

4.1. **Obligations.** The District agrees to provide Contractor with accurate, complete, and updated District Data. Furthermore, the District agrees to store District Data and First Responder Agency Data in compliance with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules. Authorized End Users may not select as their User ID a name that the District or the Authorized End User does not have the right to use, or another person's name with the intent to impersonate that person. An Authorized End User may not transfer its account to anyone else without prior written permission of Contractor. An Authorized End User will not share his or her account or password with anyone and must protect the security of his or her account and password. The District is responsible for any activity associated with the accounts of the Authorized End Users. The District shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, access the Website, and receive Notifications.

4.2. **District Authority.** The District represents that it has the authority under FERPA, ISSRA, and SOPPA (each as defined in Section 6.3) to provide the District Data to Contractor for the purposes of this Agreement.

5. OWNERSHIP OF INTELLECTUAL PROPERTY

5.1. **Contractor Intellectual Property (Contractor IP).** For the purpose of this Agreement, "Contractor IP" means the Services, the Notifications, the Website, and any and all Proprietary Information (as defined in Section 7.1) in this Agreement or otherwise provided to the District and/or its Authorized End Users in connection with the foregoing, excluding the District Data and First Responder Agency Data. Subject to the rights granted in this Agreement, Contractor and its licensors retain all right, title and interest in and to the Contractor IP and its components, and the District acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. If the District provides any

suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the Contractor IP, the District assigns (and will cause its agents and representatives to assign) to Contractor all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

6. RECORDS AND CONFIDENTIALITY

6.1. **District Records.** The Contractor and individuals performing Services through Contractor shall have access to the Student Data. It is the understanding of the Parties that such Student Data, and only such Student Data, is necessary for performance of the Services. The Parties agree that Contractor will treat all Student Data and information received from the District under the Agreement as fully covered by state and federal student records confidentiality laws, including the Family Educational Rights and Privacy Act. The Contractor agrees that any Student Data and information it receives from the District, or from District employees when derived from District records, shall remain the property of the District and under the District's control.

6.2. **District Data & First Responder Agency Data.** As between Contractor and the District, all right, title and interest in the District Data and First Responder Agency Data, belong to and are retained solely by the District. The District hereby grants to Contractor a limited, non-exclusive, royalty-free, worldwide license during the term of the Agreement to use the District Data and First Responder Agency Data and perform all acts with respect to the District Data and First Responder Agency Data as may be necessary for Contractor to provide the Services to the District, including without limitation the support services set forth in Section 2.5. This may include data mining or scanning for the purposes of providing and maintaining services such as system maintenance, performance audits, system improvements. Contractor shall not collect, use, disclose, or sell any PII to other parties for any purpose except as outlined in Section 6.3 and only in accordance with FERPA and ISSRA.

6.3. **Use of Data for Services.** To the extent Contractor receives or creates confidential student record information pursuant to this Agreement, Contractor will comply with the relevant requirements of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), the Illinois School Student Records Act (ISSRA) (105 ILCS 10/1 et seq.), and the Illinois Student Online Personal Protection Act (SOPPA) (105 ILCS 85/1 et seq.), regarding the confidentiality of student "education records" as defined in FERPA, "school student records" as defined in ISSRA, and Student Data as defined herein. Pursuant to FERPA and SOPPA, Contractor is acting as a school official with a legitimate educational interest, is performing an institutional service or function for which the District would otherwise use employees, is under the direct control of the District with respect to the use and maintenance of Student Data, and is using Student Data only for an authorized purpose and may not re-disclose it to third parties or affiliates, unless otherwise permitted under SOPPA, without permission from the District or pursuant to court order. Any use of information contained in student education records and Student Data to be released must be approved by the School District. To protect the confidentiality of student education records and Student Data, Contractor will limit access to student education records and Student Data to those employees, agents, and service providers who reasonably need access to them to perform their responsibilities under this Agreement. Such records should not be used for the Contractor's or Contractor's employees' own business

purposes outside the performance of Services. The District acknowledges that the web service providers of Contractor, currently Amazon Web Services (AWS), SmartyStreets, and Microsoft Corporation (Microsoft 365), will have access to the Student Data only for the limited purpose of providing such web services. Contractor acknowledges that the Data Privacy Policy of AWS and SmartyStreets, as of the Effective Date of this Contract, states that AWS and SmartyStreets will not access or use Contractor's content for any purpose without Contractor's consent. Contractor agrees to promptly notify District if it changes web service providers or becomes aware of a change in the Data Privacy Policy of these third-party service providers with respect to Contractor content. Contractor shall provide the District with the list of third parties and affiliates to whom Contractor discloses covered information, as and when required by 105 ILCS 85/15(6). Deidentified data obtained from student records may be used by Contractor only for the purpose of ongoing research and product improvements, and only provided the deidentification complies with state and federal law and regulation, including, but not limited to FERPA and ISSRA.

6.4. **Aggregated Data.** Notwithstanding anything in this Agreement to the contrary, the District acknowledges that Contractor may compile and analyze aggregated, de-identified data based on the District Data and the First Responder Agency Data input into the Services for such purposes as, but not limited to, identifying and communicating trends within or across Districts for strategic planning, prevention program development, and/or resource allocation by the District or community stakeholders. For example, de-identified aggregate data may indicate a need for additional community-based children's behavioral health providers. In such uses, all personal identifying information shall be removed and the data shall be aggregated in such a way as to prevent the possibility of the identification of any individual student. Data may be aggregated at the grade level, building level, by race/ethnicity, or gender; at the district level; or at the County level, depending on data analysis requests or needs, but only to such a level as students cannot be identified. No rights or licenses are granted except as expressly set forth in this Agreement.

6.5. **Maintenance and Destruction of District Records.** Any records created by Contractor that are not shared with the District and that does not constitute District Data or student record information under FERPA or ISSRA, will not be District records and will not be maintained by the Contractor on behalf of the District. Upon termination of the Agreement for any reason or at the expiration of its term, any District record information in possession of Contractor or individuals performing Services and all paper copies of District records shall be returned to the District. Any electronic copies of District records and any records created by Contractor that identify a student of the District (or individual who was a student of the District when Contractor received or created the records) retained by the Contractor shall be destroyed within sixty (60) days after termination of this Agreement in a manner in accordance with all applicable laws and U.S. Department of Education and Privacy Technical Assistance Center guidelines.

6.6. **Data Breach.** For purposes of this section, "data breach" means a "breach" as defined in SOPPA, 105 ILCS 85/5, involving District Data maintained by Contractor or its service providers.

In the event of a data breach, the Contractor agrees to the following: (1) notify the School District by telephone and email within the most expedient time possible and without

unreasonable delay, but no later than thirty (30) calendar days after the determination that a breach has occurred; (2) at the time notification of the breach is made, provide the School District with the name and contact information for an employee of the Contractor who shall serve as the Contractor's primary security contact; (3) assist the School District with any investigation, including interviews with Contractor employees and review of all relevant records; (4) provide the School District within the most expedient time possible and without unreasonable delay, and in no case later than fifteen (15) days after notification to the District that a data breach occurred, the number of students whose covered information is involved in the breach; the date, estimated date, or estimated date range of the breach; a description of the covered information that was compromised or reasonably believed to have been compromised in the breach; and contact information for the person who parents/guardians may contact at the Contractor regarding the breach; and (5) assist the School District with any notification the School District deems necessary related to the security breach. The Contractor agrees to comply with the terms of this Section regardless of whether the misuse or unauthorized release of School District Data is the result of or constitutes a material breach of the Agreement.

The Contractor shall not, unless required by law, provide any notices except to the School District without prior written permission from the School District.

With respect to any data breach attributable to Contractor or its service providers, the Contractor shall reimburse the School District for the reasonable, documented costs and expenses incurred by the School District in investigating and remediating the data breach, including but not limited to reimbursement of costs associated with notifying individuals whose information was compromised and notifying required regulatory agencies; fees paid to provide credit monitoring to students whose covered information was exposed in a manner that a reasonable person would believe could impact his or her credit or financial security; legal fees, audit costs, fines, and any other fees or damages imposed against the School District as a result of the security breach; and any other notifications or other requirements imposed on the School District by State or federal law in response to the breach. Contractor's aggregate obligation under this paragraph shall not exceed the limit of the cyber liability insurance required under Section 9.3. This paragraph sets forth the allocation of breach costs required by 105 ILCS 85/15(4)(D).

6.7. **Audio and Video Recordings.** The Contractor will not make audio or video recordings of or on District premises or of District staff, students, parents or other interested persons, unless written permission is provided by the District.

6.8. **FOIA.** As an independent contractor of the School District, records in the possession of the Contractor related to this Agreement may be subject to the Illinois Freedom of Information Act ("FOIA"), 5 ILCS 140/5-1 et seq.; 5 ILCS 140/7(2). The Contractor, at the Contractor's cost, shall promptly provide the School District with any such records requested by the School District to timely respond to any FOIA request received by the School District. The School District will review all such records to determine whether FOIA exemptions apply before disclosing the records, such that information properly exempt as proprietary or prohibited from release by other laws or exempt for other reasons will not be released. If the Contractor refuses to provide a record that is the subject of a FOIA request to the School District and the Attorney General or a court of competent jurisdiction subsequently requires the release of the record or penalizes the School District in any way, the Contractor shall reimburse the School District for

all costs, including attorneys' fees, incurred by the School District related to the FOIA request and records at issue.

6.9. **SOPPA Statements.** The categories of covered information to be provided to Contractor are identified in the Statement of Work, and the product and service provided to the District by Contractor are described in Section 2.1 and the Statement of Work. The District must publish this Agreement on its website as required by 105 ILCS 85/15(4)(F).

6.10. **Publicity.** Contractor may identify the District as a customer of the Services only with advance written consent from the District. All use of the District's name or logo in Contractor's marketing materials requires the District's prior written consent. Contractor may use de-identified, aggregate data compiled under Section 6.4 to demonstrate the impact of the Services, provided that the data is aggregated in such a way that no individual student can reasonably be identified and is done in accordance with state and federal law.

7. PROPRIETARY INFORMATION

7.1. **Proprietary Information.** Contractor may designate as proprietary any non-public information that it furnishes to the District concerning the features, functionality, design, methods, pricing, or performance of the Services, including training and implementation materials ("Proprietary Information"). Contractor furnishes Proprietary Information under a claim that it is proprietary and confidential and that its disclosure would cause competitive harm to Contractor, within the meaning of Section 7(1)(g) of FOIA, 5 ILCS 140/7(1)(g). The District shall use Proprietary Information only in connection with this Agreement and shall not disclose it except as required by law. Notwithstanding the above, the District's compliance with FOIA and the Illinois Open Meetings Act shall not constitute a violation of this Section.

8. TERM AND TERMINATION

8.1. **Term.** The Initial Term of this Agreement shall commence upon the execution by both parties and continue until June 30, 2027. The Agreement may renew upon written agreement by the Parties. The Initial Term, together with any renewal term agreed upon by the Parties, shall collectively be referred to as the "Service Term."

8.2. **Termination without Cause.** At any time during the Service Term, the District may terminate this Agreement without cause by providing notice of termination to Contractor no later than thirty (30) days prior to the effective date of such termination. Upon such termination, Contractor shall retain Fees earned through the effective date of termination, including Fees reasonably attributable to implementation and training Services already performed, and shall refund to the District any prepaid Fees attributable to the remaining, unused portion of the Service Term on a pro rata basis. The foregoing is subject to Section 11.2.

8.3. **Termination for Cause.** In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Service Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty-day period. Either Party may terminate this Agreement, without notice, (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy

proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. Upon termination for Contractor's breach, Contractor will refund to the District a pro-rata portion of the pre-paid Fees for services not received due to such termination.

8.4. **Effect of Termination.** Upon any termination of the Service Term, Contractor will collect and delete all District Data and First Responder Agency Data, terminate the District's right to access the Website, and all licenses granted by Contractor under this Agreement will immediately cease; provided that Contractor shall provide the District with at least thirty (30) days after its receipt of notice of termination to retrieve any District Data and First Responder Agency Data. Upon termination of this Agreement, the District will immediately cease all access to the Website, except as necessary to retrieve the District Data. Upon termination, the District will notify all agencies providing First Responder Agency Data to stop data exports to Contractor.

9. WARRANTIES AND INSURANCE

9.1. **Warranty.** Contractor shall use reasonable efforts consistent with prevailing industry standards to perform the Services and maintain the Website in a manner which minimizes errors and interruptions. The Services and the Website may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Contractor or by third-party service providers, or because of other causes beyond Contractor's reasonable control, but Contractor shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. The District's remedies for interruptions in the availability of the Services are set forth in Section 2.7.

9.2. **Disclaimer.** EXCEPT AS REQUIRED ELSEWHERE IN THIS AGREEMENT, CONTRACTOR DOES NOT WARRANT THAT THE SERVICES OR THE WEBSITE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES OR THE WEBSITE. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES, THE WEBSITE, AND THE NOTIFICATIONS ARE PROVIDED "AS IS" AND CONTRACTOR DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9.3. **Insurance.** During the term of this Agreement, Contractor, at its sole cost and expense, and for the benefit of the School District, shall carry and maintain the following insurance:

1. Comprehensive general liability and property damage insurance, insuring against all liability of Contractor related to this Agreement, with a minimum combined single limit of One Million Dollars ($1,000,000.00) per occurrence and Two Million Dollars ($2,000,000) general aggregate;

2. Professional Liability/Technology Errors & Omissions and Cyber Liability Insurance, which may be provided under a single combined policy, with limits in

the per claim amount of not less than One Million Dollars ($1,000,000.00) and the annual aggregate of not less than One Million Dollars ($1,000,000); and

3. Workers' Compensation Insurance covering all costs, statutory benefits, and liabilities under State Workers' Compensation and similar laws for Contractor's respective employees, to the extent required by law.

All insurers shall be licensed or authorized to do business in the State of Illinois and rated A- VII or better by A.M. Best or comparable rating service. The comprehensive general liability and property damage insurance policy shall name the School District, its Board, Board members, employees, agents, and successors as an additional insured on a primary noncontributory basis with a waiver of subrogation in favor of the School District. Contractor shall provide the School District with certificates of insurance and/or copies of policies reasonably acceptable to the School District evidencing the existence of the coverage described above, including form and deductibles, during the duration of this Agreement. The failure to provide acceptable insurance shall be deemed a breach of this Agreement subject to Section 8.3. Contractor shall provide the School District with at least thirty (30) days' prior written notice of the cancellation or non-renewal of any required coverage or, if Contractor receives less notice from its insurer, notice as soon as practicable.

10. LIMITATION OF LIABILITY AND INDEMNITY

10.1. **Limitation of Liability.** EXCEPT AS PROVIDED IN SECTION 6.6 WITH RESPECT TO DATA BREACH COSTS, EXCEPT FOR A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND NOTWITHSTANDING ANYTHING TO THE CONTRARY, NEITHER PARTY AND ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DISTRICT DATA OR FIRST RESPONDER AGENCY DATA OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES OR TECHNOLOGY; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND THE PARTY'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED (I) FOR CLAIMS OF A TYPE COVERED BY THE INSURANCE REQUIRED UNDER SECTION 9.3, THE APPLICABLE LIMITS OF THAT REQUIRED INSURANCE, OR (II) FOR ALL OTHER CLAIMS, FORTY-FOUR THOUSAND SIX HUNDRED FORTY DOLLARS ($44,640), WHICH IS FOUR (4) TIMES THE ANNUAL FEE FOR THE SERVICES.

10.2. **Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents in connection with the performance of their obligations under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own employees, officers, or agents.

10.3. **General Indemnification.** To the fullest extent allowed by law, the Contractor agrees to reimburse defense costs, indemnify and hold harmless the District from and against all injuries, loss, causes of action, claims, liability, damages, or judgments, including costs, expenses, and attorneys' fees, to the extent arising from (1) Contractor's negligent acts and/or errors and/or omissions in the performance of services; (2) Contractor's breach of the Agreement; or (3) the Contractor's violation of law. The indemnification obligation set forth in this section shall not be limited by the amount of any insurance maintained by the Contractor, but is subject to Section 10.1. This provision shall survive the termination of the Agreement.

10.4. **Trademark Indemnification.** Contractor warrants that, to Contractor's knowledge, no third party has any claim to any trademark, patent, or proprietary interest in any product or service the Contractor provides to the District. The Contractor will defend, hold harmless, and indemnify the District from any claims brought by a third party against the District to the extent based on an allegation that any Contractor product or service infringes any U.S. patent, copyright, trademark, trade secret or other proprietary right of a third party. If the District's use of the Contractor's products is restricted as the result of a claim of infringement, the Contractor shall do one of the following: (i) substitute another equally suitable product or service; (ii) modify the allegedly infringing Contractor product or service to avoid the infringement; (iii) procure for the District the right to continue to use the Contractor product or service free of the restrictions caused by the infringement; or (iv) take back such Contractor product or service and refund to the District the fees previously paid for the Contractor's product or service depreciated on a straight line basis over 12 months and terminate the District's license to use the Contractor's product. Contractor shall have no obligation under this Section 10.4 to the extent a claim arises solely from District Data, First Responder Agency Data, or any modification or use of the Services other than as provided by Contractor in accordance with this Agreement.

11. MISCELLANEOUS

11.1. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, that provision shall be deemed to be severed and this Agreement shall remain in full force and effect with that provision severed or as modified by court order provided that said provision determined invalid does not substantially impair the intent or substance of this Agreement so that the purposes of this Agreement are not fulfilled and the benefits to the parties hereto are not realized. If said provision does substantially impair the intent or substance, the parties shall attempt to agree on an amendment to this Agreement to address the changes necessary because of the court determination. If the parties are unsuccessful in negotiating an amendment, this Agreement shall terminate.

11.2. **Assignment.** This Agreement may not be assigned by the School District or by the Contractor without the prior written consent of the other party, except that Contractor may assign this Agreement without consent to a successor in connection with a merger, reorganization, or sale of all or substantially all of Contractor's assets or equity, upon written notice to the District. Within thirty (30) days after receipt of such notice, the District may terminate this Agreement by written notice to Contractor, in which case Contractor will refund to the District a pro-rata portion of the pre-paid Fees for services not received due to such termination.

11.3. **Entire Agreement.** This Agreement, together with the Scope(s) of Work, are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided in this Agreement.

11.4. **Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and the District does not have any authority of any kind to bind Contractor in any respect whatsoever.

11.5. **Intentionally Deleted.**

11.6. **Governing Law; Venue.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Illinois. Jurisdiction and venue for all disputes hereunder shall be the Circuit Court located in Rock Island County, Illinois, or the federal district court for the Central District of Illinois.

11.7. **Headings.** The headings are merely for organization and should not be construed as adding meaning to this Agreement or interpreting the associated Sections.

11.8. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which, taken together, shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or pdf electronic mail, or by electronic acknowledgement, shall be as effective as delivery of a manually executed counterpart of this Agreement. The Parties expressly agree that a copy of the original signature (including an electronic copy) or electronic acknowledgement may be used for any and all purposes for which the original signature may have been used. The Parties further waive any right to challenge the admissibility or authenticity of this Agreement in a court of law based solely on the absence of an original signature.

11.9. **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the organizations and individuals they are representing.

11.10. **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

11.11. **Criminal Background Check.** The Contractor shall not send to any school building or school property any employee or agent who would be prohibited from being employed by the School District due to a conviction of a crime listed in 105 ILCS 5/10-21.9 or who is listed in the Illinois Sex Offender Registry or the Illinois Murderer and Violent Offender Against Youth Registry. The Contractor shall make every employee who will be sent to any school building or school property available to the School District for submitting to a fingerprint-based criminal history records check pursuant to 105 ILCS 5/10-21.9. The check shall occur before any employee or agent is sent to any school building or school property. The Contractor

will reimburse the School District for the costs of the checks. The School District must provide a copy of the report to the individual employee, but is not authorized to release it to the Contractor.

11.12. **Effective Date.** This Agreement shall be deemed dated and become effective on the date the last of the parties executes the Agreement as set forth below.

<SIGNATURE PAGE FOLLOWS>

WHEREFORE, this Agreement has been executed freely and voluntarily by Contractor and the District on the dates set forth below:

CONTRACTOR	**CLIENT**
Lifting Up, LLC, dba knowtifyED	Board of Education of Rock Island-Milan School District #41
By: _____	By: _____
Name: Kathleen Kelly	Name: _____
Its: Founder and CEO	Its: _____
Date: _____	Date: _____

Exhibit A: Statement of Work

Handle With Care (HWC) Implementation using knowtifyED

Fees

The Fee for the Initial Term is $7,440 and will be paid by Rock Island-Milan School District

Project Components and Support Services

- Initial Launch:
    - Building-level Initial Implementation Sessions: Professional learning session for overview of HWC, the identification of available building-based SEL support staff (internal and community-based), and embedding of HWC into the Problem-Solving and MTSS Process. Team members to include in training at the Superintendent's discretion may include:
        - Building Administrators
        - Student Support Team Members: Counselors, Social Workers, Nurse, etc
- Ongoing Coordination throughout Term of Service:
    - Ensure sustainability and HWC model fidelity through quarterly regional leadership meetings;
    - Additional virtual professional development support modules
    - Annual refresher training on HWC and knowtifyED

Roles and Responsibilities

- District:
    - Provide and send District Data to designated server location
        - District Data to include: Student ID, Student Name (first, last), Student Address (including apartment number if applicable), Grade, School, Gender, Race/Ethnicity; Parent/Guardian Name (first, last), Parent/Guardian Address (including apartment number if applicable);
    - Coordinate the professional learning date(s) for designated staff;
    - Develop and define the embedding of HWC into Student Support Processes.
- Contractor:
    - Facilitate Intergovernmental Data Sharing Agreement execution;
    - Coordinate and secure First Responder Agency Data exports;
    - Provide Handle With Care educational and professional learning presentations to designated notification recipients and other stakeholders as determined by the District;
    - Activate the notifications and provide Website credentials to designated staff.