

**MALVERNE UNION FREE SCHOOL DISTRICT PROVIDER AGENCY SERVICES**  
**CONTRACT**

This AGREEMENT is entered into this August 2, 2022 by the Board of Education of the Malverne Union Free School District (hereinafter the "DISTRICT"), and Dembry LLC (hereinafter "PROVIDER"), having its principal place of business for the purpose of this AGREEMENT at

Debry LLC  
1051 Bellmore Ave.  
Bellmore, NY 11710

1. This AGREEMENT shall commence on August 1, 2022 and continue thereafter in full force and effect through the period ending June 30 2023 inclusive, unless terminated as hereinafter specified in this AGREEMENT. It is understood that the DISTRICT is under no obligation to renew this AGREEMENT upon its expiration on June 30, 2023.

**CONDITIONS:**

In performing services specified in this AGREEMENT, it is understood that:

1. PROVIDER will be engaged in an independent Contractor and therefore be solely responsible for the payment of federal and state income taxes applicable to this AGREEMENT.
2. Neither PROVIDER nor any of its employees, agents, or assigns will be eligible for any employee benefits whatsoever relative to this AGREEMENT including, but not limited to, social security, New York State Worker's Compensation) unemployment insurance, New York State Employee's Retirement System, health. or dental insurance, or malpractice insurance.
3. DISTRICT, if required by Federal or State requirements, will submit a Form 1099 and IT 2102.1 respectively at year-end to the Federal Government for all individuals having a gross income exceeding \$600, which thereupon will be reported for income tax purposes.
4. This AGREEMENT, and any amendments to this AGREEMENT, will not be in effect until agreed to in writing and signed by authorized representatives of both parties.
5. The PROVIDER further agrees that it shall defend, indemnify and hold harmless the DISTRICT, its administrators, board of education, directors, agents and employees for all loss, costs, damages and expenses, including attorneys' fees, judgments, fines and amounts paid in settlement in connection with any threatened, pending or completed action, suit or proceeding, arising from any act, error, omission, misstatement, misleading statement,

neglect or breach of duties by the PROVIDER or any of its officers, directors, agents or employees taken or made in the performance of their obligations undertaken or reasonably assumed with respect to this AGREEMENT.

The DISTRICT further agrees that it shall defend, indemnify and hold harmless the PROVIDER, its administrators, directors, agents and employees for all loss, costs, damages and expenses, including attorneys' fees, judgments, fines and amounts paid in settlement in connection with any threatened, pending or completed action, suit or proceeding, arising from any act, error, omission, misstatement, misleading statement, neglect or breach of duties by the DISTRICT or any of its officers, directors, agents or employees taken or made in the performance of their obligations undertaken or reasonably assumed with respect to this AGREEMENT.

6. All providers providing services pursuant to this AGREEMENT shall be subject to the approval of the DISTRICT, which approval shall not be unreasonably withheld. The DISTRICT specifically reserves the right to reject and/or request replacement of any of such providers.

#### SERVICES AND RESPONSIBILITIES:

1. Scope of Services (2022-2023): Shall provide the District with the following services:
  - 1 year Datability web subscription - \$4,070
  - a. Only those students referred by the DISTRICT and approved in advance by the Director of Special Education, shall receive services pursuant to this AGREEMENT.
2. During the term of this AGREEMENT, the services to be provided by the PROVIDER to the DISTRICT shall include, but not be limited to the following:
  - a. Access to web-based Datability for the number of licenses purchased.
3. PROVIDER shall perform services pursuant to this AGREEMENT according to the mutual agreement of the parties and pursuant to the students' IEPs.
4. PROVIDER shall provide conscientious, competent and diligent services throughout the entire term of this AGREEMENT.
5. PROVIDER shall perform all services under this AGREEMENT in accordance with all applicable Federal, State and local laws, rules, and regulations, as well as the established and acceptable requirements of the New York State Education Department.
6. PROVIDER will work cooperatively with the Committee on Special Education, the Committee on Pre-School Special Education, the DISTRICT'S administrative staff and medical staff, and will work directly under the administrative supervision of the Director of Special Education.
7. All services provided by PROVIDER to students under this AGREEMENT shall be in accordance with each student's IEP (if applicable). PROVIDER warrants that it has

reviewed the Individualized Education Program (IEP) of each pupil to receive its services, and represents that it can provide the level of services identified in the IEP to meet the needs of such children with disabilities.

8. PROVIDER shall provide services and maintain records, logs and reports including, but not limited to, those pertaining to confidentiality of student records, in accordance with all applicable laws, regulations, requirements of the New York State Education Department or Health Department and DISTRICT policies and procedures in force during the term of this AGREEMENT. All students' records, logs, etc., will be the property of the DISTRICT and will be considered mandated records.
9. PROVIDER shall observe and comply with all DISTRICT Policies and Regulations while on the grounds of the DISTRICT or providing services under this AGREEMENT.
10. PROVIDER shall perform background checks and fingerprinting of all staff directly providing services to students, and comply with all provisions of the Safe Schools Against Violence in Education Act, Project SAVE. PROVIDER shall provide the DISTRICT with the appropriate proof of clearance for employment by the New York State Education Department for each individual providing services pursuant to this AGREEMENT.
11. The PROVIDER, at its sole expense, shall procure and maintain such policies of comprehensive general liability, and such other insurance as shall be necessary, naming the DISTRICT as additional insured against any claim for liability, personal injury, and/or death occasioned directly or indirectly by the PROVIDER in connection with the performance of the PROVIDER's responsibilities under this Agreement. Each such policy shall provide a minimum coverage of One Million (\$1,000,000) Dollars in the event of injury or death to one person and Three Million (\$3,000,000) Dollars in the event of injury or death to more than one person as a result of the same incident. Upon the execution of this Agreement, the PROVIDER will supply the DISTRICT with a copy of said policy.

#### REPRESENTATIONS:

1. PROVIDER represents that all services under this AGREEMENT will be provided by individuals who are of good character, who are in good professional standing, and who possess current and valid licenses / certifications, if any, necessary to perform the services under this AGREEMENT. PROVIDER represents that no individuals providing services under this AGREEMENT are currently charged, nor in the past have been charged with any criminal or professional misconduct or incompetence. PROVIDER  
  
shall provide copies of licenses / certifications of all professionals servicing the DISTRICT upon the execution of this AGREEMENT.
2. In the event that the license / certification of PROVIDER or any agent or employee thereof is revoked, terminated, suspended, or otherwise impaired, or if any litigation becomes pending against PROVIDER, or in the event that PROVIDER receives notice of such impending action, PROVIDER shall immediately notify the DISTRICT through the Director of Special Education and Pupil Personnel Services.

3. PROVIDER represents that it is a corporation in good standing with the New York Department of State and/or New York State Education Department, if applicable and will provide the DISTRICT with proof of same on or before its execution of this AGREEMENT.

COMPENSATION:

1. The DISTRICT shall pay PROVIDER in accordance with the following fee schedule, following the presentation of detailed invoices by PROVIDER to the DISTRICT:
  - a. Datability subscription \$4,070

## DEFAULT

1. Either PROVIDER or the DISTRICT may terminate this AGREEMENT upon thirty (30) days' prior written notice to the other party. Such notice shall be given in accordance with the requirements for all notices pursuant to this AGREEMENT set forth below.
2. In the event the PROVIDER or the DISTRICT terminates this AGREEMENT upon thirty (30) days written notice, with or without cause, PROVIDER shall not be liable to the DISTRICT for further services, and the DISTRICT shall only be liable to PROVIDER for those amounts invoiced for services performed by PROVIDER prior to the effective termination of this AGREEMENT.
3. The parties agree that PROVIDER'S failure to comply with any terms or conditions of this AGREEMENT will be deemed a material breach of contract, and will provide a basis for the DISTRICT to immediately terminate this AGREEMENT without any further liability to PROVIDER.

## NOTICES

1. All notices which are required or permitted under this AGREEMENT shall be in writing, and shall be deemed to have been given if delivered personally or sent by registered or certified mail, addressed as follows:

To DISTRICT:                      Malveme Union Free School District  
    301 Wicks Lane  
    Malverne, NY 11565  
    Attn: Meredyth I. Martini, Director of Special Education

To PROVIDER:                      Dembry LLC  
    1051 Bellmore Avenue  
    Bellmore, NY 11710

## SUCCESSORS AND ASSIGNS:

1. It is expressly understood that neither party may assign or otherwise transfer its rights, privileges, or obligations under this AGREEMENT without prior written consent of the other party.

## WAIVER OF RIGHTS

1. The failure of either party to enforce any provision of this AGREEMENT shall not be construed as a waiver or limitation of that party's right to subsequently enforce every provision of this AGREEMENT.

SEVERABILITY

1. Should any provision of this AGREEMENT, for any reason, be declared invalid and/or unenforceable, such decision shall not effect the validity of the remaining provisions of this AGREEMENT. Such remaining provisions shall remain in full force and effect as if this AGREEMENT had been executed with the invalid provision(s) eliminated.

GOVERNING LAW

1. This AGREEMENT and the rights and obligations of the parties hereunder shall be construed in accordance with, and governed by, the laws and regulations of the State of New York and applicable Federal laws and regulations. In any proceeding concerning the enforceability of this AGREEMENT, the parties consent to personal jurisdiction in the Courts of the State of New York.

ENTIRE AGREEMENT:

1. This AGREEMENT, along with the attached "Schedule A," is the complete and exclusive statement of the AGREEMENT between the parties, and supersedes all prior or contemporaneous, oral or written: proposals, understandings, representations, conditions or covenants between the parties relating to the subject matter of the AGREEMENT.
2. This AGREEMENT may not be changed orally, but only by an AGREEMENT, in writing, signed by authorized representatives of both parties.

Dembry LLC

MALVERNE UNION FREE  
SCHOOL DISTRICT



By: Dembry LLC

\_\_\_\_\_  
President MALVERNE

BOARD OF EDUCATION

Date 8/10/22

Date \_\_\_\_\_