

CONTRACT AMENDMENT NUMBER 1

I. PARTIES

This Amendment to the above-referenced Original Contract (hereinafter called the Contract) is entered into by and between Excent Corporation (hereinafter called Contractor), 60 King Street, Roswell, Georgia 30075, and the State of Colorado (hereinafter called the State) acting by and through the Colorado Department of Education (hereinafter called CDE), 201 East Colfax, Denver, Colorado 80203.

II. EFFECTIVE DATE AND ENFORCEABILITY

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the Effective Date). The State shall not be liable to pay or reimburse Contractor for any performance hereunder including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

III. FACTUAL RECITALS

The Parties entered into the Contract to deliver, implement, and maintain, during the term of this Contract, a data management system ("ESSU Data Management System," "Data Management System," or "System") that will assist in the documentation and reporting of Colorado's special education student information.

IV. CONSIDERATION-COLORADO SPECIAL PROVISIONS

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Amendment. The Parties agree to replacing the Colorado Special Provisions with the most recent version (if such have been updated since the Contract and any modification thereto were effective) as part consideration for this Amendment.

V. LIMITS OF EFFECT

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

VI. MODIFICATIONS

The Amendment and all prior amendments thereto, if any, are modified as follows:

- A. Paragraph V.A. shall be amended to extend the performance period through June 30, 2016.
- B. Paragraph VII.A. shall be amended to increase the maximum amount payable by \$783,000 per year for product license and support payable on the third and fourth anniversary dates of the effective date of the contract, for a total maximum amount payable of \$4,474,250.

State Fiscal year 2015 \$ 783,000

State Fiscal year 2016 \$ 783,000

- C. Paragraph X. shall be amended by adding the following new paragraphs X.L through X.N:

- L. Security Breach Remediation

If Contractor becomes aware of a data security breach, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, if any. Unless Contractor can establish that Contractor or any of its Subcontractors is not the cause or source of the breach or unless the breach occurred despite Contractor's compliance with its security obligations herein, Contractor shall be responsible for the cost of notifying each Colorado resident and residents of other states whose personal information may have been compromised. Notice shall be made as soon as practical within the legitimate needs of law enforcement and according to the requirements of State law. Contractor shall be responsible for performing an analysis to determine the cause of the breach, and for producing a remediation plan to reduce the risk of incurring a similar type of breach in the future. Contractor shall present such analysis and remediation plan to the State promptly within a reasonable period of notifying the State of the data security breach. The State reserves the right to propose comments and suggestions to adjust this plan, and Contractor will consider such comments and suggestions in good faith and work with the State to produce a mutually agreeable plan. If Contractor cannot

produce the required analysis and plan within a reasonable period of time, the State, in its sole discretion, may perform such analysis, produce a remediation plan, and Contractor shall reimburse the State for the reasonable costs thereof. A breach of Personal Identity Information (PII) shall have occurred when there has been unauthorized acquisition of unencrypted PII data (electronic or otherwise) used in performance of the Contract, or any subcontract from the Contractor's or any Subcontractors possession which compromises security, confidentiality, or integrity of such PII. Contractor agrees to use industry standard practices and procedures and commercially reasonable efforts to protect PII from unauthorized disclosure, and Contractor shall be liable for any unauthorized disclosure of PII in its possession or in the possession of its Subcontractors in the event Contractor breaches such obligations, as if Contractor was the owner of the data. Contractor acknowledges that any breach of its obligations to use industry standard practices and procedures and commercially reasonable efforts that results in an unauthorized disclosure of PII is a material breach of the Contract. Contractor shall notify the State immediately of any breach or suspected breach, but in no event later than twenty-four hours after Contractor learns of a suspected breach. Contractor shall bear all costs of enacting any remediation plan.

M. End of Agreement Data Handling

Upon request by the State made before or within sixty days after the effective date of termination of the Contract, Contractor will make available to the State a complete and secure (i.e. encrypted and appropriately authenticated), download file of all State system data in XML format, including all schema and transformation definitions, and/or delimited text files with documented, detailed schema definitions along with attachments in their native format. The Parties agree that on the termination of the provision of data processing services, the Contractor shall, at the choice of the State, return all the personal data transferred, and the copies thereof to the State, or shall destroy all the personal data and certify to the State that it has done so, unless legislation imposed upon the Contractor prevents it from returning or destroying all or part of the data transferred. In that case, the Contractor agrees that such personal data will continue to be subject to Contractor's confidentiality obligations and it will not actively process the data transferred anymore.

N. Disposition of Data

The State retains the right to use the established operational services to access and retrieve State data content stored on Contractor's infrastructure at its sole discretion. Upon request of the State and/or of the supervisory authority, the

Contractor will submit its data processing facilities for an audit of the measures referred to in Paragraph X.D. The State reserves all right, title and interest, including all intellectual property and proprietary rights, in and to the ESSU system data and content.

D. Paragraph XV.B. shall be amended to include the following insurance coverages:

10. Privacy Insurance

Such insurance shall include, at a minimum, coverage for claims and losses with respect to network or data risks (such as data breaches, release of confidential information, unauthorized access/use of information, identity theft, invasion of privacy, damage/loss/theft of data, degradation, downtime, etc.) Minimum limit of coverage of \$1,000,000.00 per occurrence and \$2,000,000 aggregate.

11. Technology Errors & Omissions

Such insurance shall cover any and all acts, errors, omissions or negligence in the delivery, performance or non-performance of products and/or services under this Contract. Such Technology Errors & Omissions insurance shall include, at a minimum, coverage for claims and losses with respect to network or data risks. Minimum coverage shall be \$1,000,000.00.

VII. START DATE

This Amendment shall take effect on the later of its Effective Date or July 1, 2014.

VIII. ORDER OF PRECEDENCE

Except for the Special Provisions, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Contract or any amendment shall always control other provisions in the Contract or any amendments.

IX. AVAILABLE FUNDS

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available.

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.

CONTRACTOR

Excent Corporation

By: David Craig
Name of Authorized Individual

Title: President
Official title of Authorized Individual

[Signature]
*Signature

STATE OF COLORADO

John W. Hickenlooper, GOVERNOR

Colorado Department of Education
Robert Hammond, Commissioner

[Signature]
By: Robert Hammond, Commissioner

Date: 5-13-14

ALL CONTRACTS REQUIRE APPROVAL by the STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER

Robert Jaros, CPA, MBA, JD

By: [Signature]
Dave Grier, CDE Controller

Date: 5-20-14