# SOFTWARE SUBSCRIPTION SERVICE (SaaS) AGREEMENT

This Software Subscription Service (SaaS) Agreement (the "Agreement") sets forth the obligations and conditions between MO Raytown Quality Schools ("Client", "District") and TransACT Communications, LLC DBA Cayen Systems ("Provider", "Company"), relating to Client's use of the Serviced defined herein.

**Recitals**

A. Provider is the owner of certain proprietary computer software known as Cayen Homeless Information Management System for Students that is used to manage data of those being served by an organization (the "Software").

B. Provider provides and sells subscriptions for subscribers to access and use the Software via any website notified to the subscribers from time to time (the "Services").

C. Client desires to use the Services for Client's internal business purposes to manage the services offered by the organization pursuant to the terms and conditions set forth herein.

D. Provider is willing to provide access to the Services for Client's internal business use pursuant to the terms and conditions set forth herein.

E. Provider and Client acknowledge and agree that this Agreement shall be effective and in force immediately upon the date below (the "Effective Date")

**NOW THEREFORE**, in consideration for the mutual promises contained herein and other good and valuable consideration, the parties agree as follows:

1. Software Subscription.

    a. Provider grants to Client and Client accepts from Provider, a limited, non-exclusive, non-transferable right to access and use and permit Authorized Users to access and use the Services solely for Client's internal business use. The Services shall not be used by Client or by Authorized Users for, or on behalf of, third parties that are not authorized under this Agreement.

    Client shall use its best efforts to ensure that the Authorized Users use the Services in accordance with the terms and conditions of this Agreement. Client acknowledges that its right to use the Services will be web-based only pursuant to the terms of this Agreement and the Software will not be installed on any servers or other computer equipment owned or controlled by Client or otherwise provided to Client.

    b. The use of the Services by Client or any Authorized User pursuant to this Agreement shall be subject to any end user agreement, terms of use, and/or privacy policy applicable to Property or any other applicable website used to access the Services.

2. Intellectual Property Rights.

    a. Client acknowledges that all right, title, and interest in and to the Services and the Software, together with its codes, sequences, derivative works, organization, structure, interfaces, any documentation, data, trade names, trademarks, or other related materials (collectively, the "Provider IP"), is, and at all times shall remain, the sole and exclusive property of Provider.

The Provider IP contains trade secrets and proprietary information owned by Provider and is protected by United States copyright laws (and other laws relating to intellectual property). Except the right to use the Services, as expressly provided herein, this Agreement does not grant to Client any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered) or any other rights or licenses with respect to the Services or the Software.

b. Client shall not attempt, or directly or indirectly allow any third party to attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, reverse compile, disassemble, reverse engineer, download, transmit or distribute all or any portion of the Services and/or Software in any form or media or by any means.

c. The provisions of this paragraph 2 shall survive termination of this Agreement.

3. Fees.

a. The Subscription Fee for the first Subscription Period of the term of this Agreement shall be paid on the Effective Date. The Subscription Fee for all subsequent Subscription Periods of the term of this Agreement shall be paid to Provider no later than the first day of each subsequent Subscription Period. The Subscription Fee is subject to change if the number of Organizations using Software changes.

b. The amount of the Subscription Fee does not include any applicable taxes. Client is responsible for any and all applicable taxes.

c. Pricing related to all products and services is detailed on RTY 2020 dated 8/28/2020.

d. Any additional payment terms between Provider and Client shall be agreed to in writing and set forth in an invoice, purchase order, billing agreement, or other written document.

4. Accessibility/Performance. Provider shall use commercially reasonable efforts to make the Services available on a 24x7 basis (twenty-four hours per day, seven days per week) during the Term, except for: (i) scheduled system back-up or other on-going maintenance as required and scheduled in advance by Provider, or (ii) for any unforeseen cause beyond Provider's reasonable control, including but not limited to internet service provider or communications network failures, denial of service attacks or similar attacks, or any force majeure events set forth in this Agreement. Provider will monitor performance indicators on the systems and network infrastructure (its own and that of third-party suppliers) in order to gauge the overall performance of its hosting services, and will take reasonable steps to address systems and network infrastructure as required to maintain satisfactory performance of the Software. Provider further reserves the right to monitor and reasonably restrict Client's ability to use the Services if Client is using excessive computing resources which are impacting the performance of the Services for other subscribers. Provider agrees to notify Client in cases where it restricts such use and use good faith efforts to determine an appropriate alternative or workaround solution.

5. Maintenance and Support. Provider shall maintain the Software and/or Services and provide all patches and fixes to the Software and/or Services at no additional cost. Provided, however, said maintenance shall not include any major releases of new versions of the Software, additional functionality, or custom programming, which Provider, at its discretion, may provide at an additional cost as otherwise agreed between the parties.

6. Term. The Term of this Agreement shall commence on the Effective Date and shall continue for one year ("Subscription Period"). Upon the end of the Subscription Period, a new Subscription Period will commence unless

terminated as provided herein. If Client elects to terminate this Agreement, for any reason, Provider must receive official signed, written notice no later than thirty (30) days prior to the end of the Subscription Period. Provider shall contact Client 45-60 days before the end of the Subscription Period to discuss renewal including any pricing changes (subscription price increases, change in number of users, etc.) for the new Subscription Period. Payment will be required in full by the beginning of the new Subscription Period to ensure continued access to Software. Late payments incur a late payment fee at the rate of 1.5% per month on any outstanding balance.

Upon termination of this Agreement for any reason, all rights and subscriptions granted to Client shall immediately terminate and the Client shall cease using the Services. Upon termination, except in the case of failure to pay without notice or intentional failure by Client to protect the intellectual property of Provider, Provider shall assist Client in extracting data from Software by providing a duplicate of the database tables in MS SQL Server format.

7. Default. Client shall be in default of this Agreement if Client fails to make any payment when due and fails to cure said default within five (5) business days after receipt of written notice thereof from Provider. In addition to the monetary breach described in the previous sentence, either party will be in default of this Agreement if the party is in material breach of this Agreement and fails to cure such breach within fifteen (15) business days after receipt of written notice thereof from the non-breaching party. If a party is in default, the nonbreaching party may terminate this Agreement or seek any other remedies available at law or in equity, except as otherwise provided in this Agreement. In the event Client breaches or attempts to breach any of the provisions of this Agreement, Provider shall have the right, in addition to such other remedies that may be available, to injunctive relief enjoining such breach or attempt to breach, Client hereby acknowledging the inadequacy of any remedy at law.

8. Confidentiality.

a. In addition to, and in no way limiting the requirements relating to the Provider intellectual property as set forth in Section 2 of this Agreement, Client shall use its reasonable efforts (but in no case less than the efforts used to protects its own proprietary information of a similar nature) to protect all proprietary, confidential, and/or non-public information pertaining to or in any way connected to the Software, the Services, the Provider's financial, professional and/or other business affairs, and this Agreement (the "Confidential Information").

b. Client shall not disclose or publicize the Confidential Information without the Provider's prior written consent.

c. Client shall use their reasonable efforts (but in no case less than the efforts used to protects its own proprietary information of a similar nature) not to disclose and not to use the Confidential Information for their own benefit or for the benefit of any other person, third-party, firm or corporation in a manner inconsistent with the purpose of this Agreement.

d. The terms of confidentiality and non-disclosure contained herein shall expire five (5) years from the date of the termination of this Agreement.

e. The restrictions on disclosure shall not apply to information which was: (i) generally available to the public at the time of disclosure, or later available to the public other than through fault of the Client; (ii) already known to the Client prior to disclosure pursuant to this Agreement; (iii) obtained at any time lawfully from a

third-party under circumstances permitting its use or disclosure to others; or (iv) required by law or court order to be disclosed.

9. Limited Warranty. Provider warrants that it has the power and authority to grant the subscription for the Services granted to Client hereunder. EXCEPT FOR THE WARRANTY SET FORTH HEREIN, THE SERVICES ARE PROVIDED "AS IS," AND PROVIDER DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Limitation of Remedy and Liability. Client represents that it accepts sole and complete responsibility for: (a) the selection of the Services to achieve Client's intended results; (b) use of the Services; (c) the results obtained from Services; and (d) the terms of any contracts between Client and Authorized Users. Provider does not warrant that the Client's use of the Services will be uninterrupted or error-free. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICES, WHETHER BASED UPON CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Company agrees to indemnify and hold harmless the District from, against and in respect to any and all claims, losses, or liabilities involving a claim or action brought against the District by a third party for damages incurred or suffered, directly or indirectly, arising from or relating to the Software, as is contemplated under this Agreement. Except as described in Exhibit A, Data governance Addendum for District Data of the Raytown C-2 School District ("Exhibit A"), in any event, under no circumstances shall Provider be liable for any loss, costs, expenses, or damages to Client in an amount exceeding the Subscription Fee actually paid to Provider by Client for the previous twelve (12) months.

10. Miscellaneous.

a. Notice and Demands. Notice, demand, or other communication mandated to be given by this Agreement by either party to the other shall be sufficiently given or delivered if it is sent by registered or certified mail, postage prepaid, return receipt requested or delivered personally. Unless Provider is otherwise notified in writing, the Client's address for notice purposes shall be Client's address provided as part of Client's billing information.

b. Governing Law; Forum Selection. To the extent allowed by applicable law, any controversy or claim arising out of or relating to this Agreement or any breach thereof, shall be settled by informal mediation with the parties subject to this Agreement. If any controversy cannot be resolved through informal mediation, any legal action in connection with this Agreement shall be filed in the Circuit Court of Jackson County, Missouri, or the United States District Court for the Western District of Missouri, as appropriate, to which jurisdiction and venue Company expressly agrees. The prevailing party in any such action shall be entitled to recover attorney's fees and court costs from the non-prevailing party. This Agreement will be construed and enforced in accordance with Missouri law.

c. Compliance with Laws. Client shall use the Services in accordance with any and all applicable local, state, and federal laws.

d. Headings. The paragraph headings in this Agreement are for convenience only and they form no part of the Agreement and shall not affect the interpretation thereof.

e. Severability. If any provision of this Agreement shall be held illegal, void, or unenforceable, the remaining portions shall remain in full force and effect.

f. No Waiver. The delay or failure of either party to exercise any right under this Agreement or to take action against the other party in the event of any breach of this Agreement shall constitute a waiver of such right, or any other right, or of such breach, or any future breaches, under this Agreement.

g. Assignment. Client shall not assign or transfer this Agreement.

h. No Partnership or Agency. Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorize either party to act as an agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise bind the other in any way.

i. Force Majeure. If either party is prevented from performing any of its obligations due to any cause which is beyond the non-performing party's reasonable control, including fire, explosion, flood, epidemic/pandemic or other acts of God; acts, regulations, or laws of any government; strike, lock-out or labor disturbances; or failure of public utilities or common carriers (a "Force Majeure Event"), such non-performing party shall not be liable for breach of this Agreement with respect to such non-performance to the extent any such non-performance is due to a Force Majeure Event. Such non-performance will be excused for three months or as long as such event shall be continuing (whichever occurs sooner), provided that the non-performing party gives immediate written notice to the other party of the Force Majeure Event.

j. Complete Agreement. This Agreement, including Exhibit A, constitutes the entire agreement between the parties with respect to the Services, and supersedes any and all prior or contemporaneous understandings or agreements whether written or oral. No amendment or modification of this Agreement will be binding unless

reduced to a writing signed by duly authorized representatives of the parties and such writing makes specific reference to this Agreement and its intention as an amendment hereto.

k. Termination for Cause. District may terminate the Agreement for cause if Company:

(1)     repeatedly refuses or fails perform the act(s) described in the Sales Contract or the Data Governance Addendum;

(2)     engages in conduct that triggers grounds for termination, as contemplated by the Data Governance Addendum;

(3)     repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;

(4)     engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the District's ethics or conflict of interest policies or District's Board of Education's policies; or

(5)     Otherwise is guilty of a substantial breach of a provision of this Agreement.

l. Termination for Convenience. District may terminate the Agreement at any time by giving at least ten (10) days' notice in writing to Company. If the contract is terminated by the District as provided herein, the District will pay Company for any proven unrecoverable loss with respect to materials, equipment, or purchases made or utilized pursuant to this Agreement, to the extent of actual loss thereon, by the date of termination. Company will not provide refunds of previously received payments.

j. Immunity. No provision of this agreement shall be construed in such a way as to waive or terminate the statutory or common law immunities enjoyed by District. District shall retain all immunities, including those immunities contained within Missouri Revised Statute § 537.600 et.seq.

**ACCEPTED BY**

Missouri Raytown Quality Schools (CLIENT)

Signature: _____

Name: _Brian Huff_____

Title: _Associate Sup CdI_____

Date: _1/26/2020_____

Tax Exempt Number: _____


**ACCEPTED BY**

TRANSACT COMMUNICATIONS, LLC DBA CAYEN SYSTEMS (PROVIDER)

Signature: _____

Name: Alex Jarzebowicz

Title: CEO

Date: _2-7-2021_____

EIN:    47-5313048

## EXHIBIT A

## Data Governance Addendum for District Data of the Raytown C-2 School District

### Definitions.

- **FERPA**: means the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g(a)(4)(A)(ii), 1232g(b)(1), as amended from time to time.
- **Security Breach (Security Incident)**: means actual evidence of a confirmed unauthorized acquisition of, access to, or unauthorized use of any Student Education Record(s), Personally Identifiable Information, User Data or other district confidential information.
- **Personally Identifiable Information (PII)**: includes but is not limited to (a) student's name; (b) name of the student's parent or other family members; (c) address of the student or student's family; (d) a personal identifier, such as the student's social security number, student number, or biometric record; and (e) other indirect personal identifiers, such as the student's date of birth, place of birth, and mother's maiden name; (f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or (g) "medical information" as may be defined in state law; "protected health information" as that term is defined in the Health Insurance Portability and Accountability Act, 45 CFR Part 160.103; (h) nonpublic personal information as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809; (i) credit and debit card numbers and/or access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; (j) other financial account numbers, access codes, driver's license numbers; (k) and state- or federal-identification numbers such as passport, visa or state identity card numbers; (l) personal identifiable information as defined by COPPA, including but not limited to online contact information like an email address or other identifier that permits someone to contact a person directly (for example, an IM identifier, VoIP identifier, or video chat identifier), screen name or user name where it functions as online contact information, telephone number, persistent identifier that can be used to recognize a user over time and across different sites (including a cookie number, an IP address, a processor or device serial number, or a unique device identifier), a photo, video, or audio file containing a child's image or voice, geolocation information sufficient to identify a street name and city or town; or other information about the child or parent that is collected from the child and is combined with one of these identifiers.
- **Student Education Record**: means identifiable information, including but not limited to PII, of Subscriber's students that may be considered part of an educational record as defined by FERPA, district policy, and any applicable state law.
- **Anonymized Data**: means any Student Education Record rendered anonymous in such a manner that the student is no longer identifiable. For example, this includes non-identifiable student assessment data and results, and other metadata, testing response