



NEW HAVEN PUBLIC SCHOOLS
AGREEMENT COVER SHEET

Cover Sheet is an Internal Document for Business Office Use

Please Type

Contractor full name: DecisionEd Group

Doing Business As, if applicable:

Business Address: 9901 Valley Ranch Parkway East, Suite 1060
Irving, TX 75063

Business Phone: (972) 591-6480

Business email: Brady.Field@decisioned.com

Funding Source & Acct # including location code: ESSR II: 2552-6363-54409

Principal or Supervisor: Michele Sherban

Agreement Effective Dates: From 3/29/2022 To 3/31/2023

Hourly rate or per session rate or per day rate.

Total amount: \$ 290,800

Description of Service: Please provide a one or two sentence description of the service. The DecisionEd K-12 Performance Management Classroom/Student provides a complete solution to address data and dashboards requirements for a school district. Included are perpetual licenses for Administrators and IBM Cognos software for server administration, report development, query development, dashboard development, and end user access for all district employees, students, and parents. Information from systems across the district is integrated into a single repository for ease of reporting and dashboard views.

Submitted by: Michele Sherban Phone: (475) 220-1160



NEW HAVEN PUBLIC SCHOOLS

Memorandum

To: New Haven Board of Education Finance and Operations Committee
From: Michele Sherban, Ed.D.
Date: March 7, 2022
Re: DecisionEd Purchase Order

Please answer all questions and attach any required documentation as indicated below. Please have someone **ready to discuss** the details of each question during the Finance & Operations meeting or this proposal might not be advanced for consideration by the full Board of Education.

1. **Contractor Name:** DecisionEd Group
2. **Description of Service:** The DecisionEd K-12 Performance Management Classroom/Student provides a complete solution to address data and dashboards requirements for a school district. Included are perpetual licenses for Administrators and IBM Cognos software for server administration, report development, query development, dashboard development, and end user access for all district employees, students, and parents. Information from systems across the district is integrated into a single repository for ease of reporting and dashboard views.
3. **Amount** of Agreement and hourly or session cost: \$290,800
4. **Funding Source** and account number: ESSR II: 2552-6363-54409
5. Approximate number of staff served through this program or service: 2000+
6. Approximate number of students served through this program or service: 20,000
7. **Continuation/renewal or new Agreement?**
Answer all questions:
 - a. If continuation/renewal, has the cost increased? If yes, by how much? What would an alternative contractor cost?
 - b. If this is a continuation, when was the last time alternative quotes were requested?
 - c. For new or continuation: is this a service existing staff could provide. If no, why not?

This is a purchase order for licenses and support for an integrated data dashboard system. A Request for Proposals (RFP) was issued through the city Bonfire site which yielded 4

proposals. All 4 proposals were evaluated by a diverse committee of stakeholders with representation from administrators and teachers. DecisionEd best met the scope of the RFP and had the lowest recurring costs after the first year.

8. Type of Service:

Answer all questions:

- a. Professional Development?
 - i. If this is a professional development program, can the service be provided by existing staff? If no, why not? This is not a professional development program but DecisionEd will provide training on using the system as part of the support.
- b. After School or Extended Hours Program? No
- c. School Readiness or Head Start Programs? No
- d. Other: (Please describe)
- e.

9. Contractor Classification:

Answer all questions:

- a. Is the Contractor a Minority or Women Owned Business? No
- b. Is the Contractor Local? No
- c. Is the Contractor a Not-for-Profit Organization? If yes, is it local or national? No
- d. Is the Contractor a public corporation? No
- e. Is this a renewal/continuation Agreement or a new service? New service
- f. If it is a renewal/continuation has cost increased? If yes, by how much? NA
- g. Will the output of this Agreement contribute to building internal capabilities? If yes, please explain: The dashboard system will build the capacity of school based and central office administrators to support data driven decisions

10. Contractor Selection: In this section, please describe the selection process, including other sources considered and the rationale for selecting the contractor. Please answer all questions:

- a. What specific skill set does this contractor bring to the project? Please attach a copy of the contractor's resume if an individual or link to contractor website if a company:
- b. How was the Contractor selected? Quotes, RFP/RFQ, Sealed Bid or Sole Source designation from the City of New Haven Purchasing Department? RFP
- c. Is the contractor the lowest bidder? If no, why? Why was this contractor selected? This was not the lowest bidder. The contractor was selected because of the quality of the proposal in addressing the scope and sequence of the RFP. This was the only contractor with a solution that allowed the district to host the services on our own servers.
- d. Who were the members of the selection committee that scored bid applications? The selection committee consisted of: Teachers – David Low, Marianne Maloney, Michael Soares; School based administrators – Paul Camarco, Sequella Coleman; Central office administrators – Ivelise Velazquez, Keisha Redd-Hannans, Lynn Brantley, Michele Sherban, Paul Whyte, Pedro Mendia, Viviana Conner; and IT rep – William Zesner.

- e. If the contractor is Sole Source, please attach a copy of the Sole Source designation letter from the City of New Haven Purchasing Department.

11. Evidence of Effectiveness & Evaluation

Answer all questions

- a. What **specific need** will this contractor address and how will the contractor's performance be measured and monitored to ensure that the need is met?

Currently the district has data in many different systems that cannot communicate with each other. This product will bring data from many different sources into one data warehouse so that it can be linked and visualized on dashboards and in reports. This will greatly increase the ability of building administrators to make decisions informed by their school data. It will also allow us to more easily disaggregate data for subgroups and look at the relationship between different variables.

- b. If this is a **renewal/continuation service** attach a copy of the evaluation or archival data that demonstrates effectiveness.
- c. How is this service aligned to the District Continuous Improvement Plan?
As part of the strategic operating plan we monitor key data points. This system will allow us to create a dashboard for monitoring those data points. While it supports many priority areas in the strategic plan it is most closely aligned with operational efficiencies.

- 12. Why do you believe this Agreement is fiscally sound? This agreement is fiscally sound because it meets the needs of the district to have a data warehouse and associated dashboards that we host. The licenses are perpetual and include all staff and students. The annual support fees were significantly less than the annual fees associated with solutions that were hosted in the cloud.

- 13. What are the implications of not approving this Agreement? If this purchase order were not approved then the district would continue to struggle to analyze its data and data analysis would continue to be dependent on the expertise of single individuals. This purchase will help to put the tools in the hands of the decision makers at the school and district level.



NEW HAVEN PUBLIC SCHOOLS

EXHIBIT B

STUDENT DATA PRIVACY AGREEMENT SPECIAL TERMS AND CONDITIONS

For the purposes of this Exhibit B "directory information," "de-identified student information," "school purposes," "student information," "student records," "student-generated content," and "targeted advertising" shall be as defined by Conn. Gen. Stat. § 10-234aa.

1. All student records, student information, and student-generated content (collectively, "student data") provided or accessed pursuant to this Agreement or any other services agreement between the Parties are not the property of, or under the control of, the Contractor.
2. The Board shall have access to and the ability to delete student data in the possession of the Contractor except in instances where such data is (A) otherwise prohibited from deletion or required to be retained under state or federal law, or (B) stored as a copy as part of a disaster recovery storage system and that is (i) inaccessible to the public, and (ii) unable to be used in the normal course of business by the Contractor. The Board may request the deletion of any such student information, student records or student-generated content if such copy has been used by the operator to repopulate accessible data following a disaster recovery. The Board may request the deletion of student data by the contractor within two (2) business days of receiving such a request and provide to the Board confirmation via electronic mail that the student data has been deleted in accordance with the request, the date of its deletion, and the manner in which it has been deleted. The confirmation shall contain a written assurance from the Contractor that proper disposal of the data has occurred in order to prevent the unauthorized access or use of student data and that deletion has occurred in accordance with industry standards/practices/protocols.
3. The Contractor shall not use student data for any purposes other than those authorized pursuant to this Agreement.
4. A student, parent or legal guardian of a student may review personally identifiable information contained in student data and correct any erroneous information, if any, in such student data. If the Contractor receives a request to review student data in the Contractor's possession directly from a student, parent, or guardian, the Contractor agrees to refer that individual to the Board and to notify the Board within two (2) business days of receiving such a request. The Contractor agrees to work cooperatively with the Board to permit a student, parent, or guardian to review personally identifiable information in student data that has been shared with the Contractor, and correct any erroneous information therein.

5. The Contractor shall take actions designed to ensure the security and confidentiality of student data.
6. The Contractor will notify the Board, in accordance with Conn. Gen. Stat. § 10-234dd, when there has been an unauthorized release, disclosure or acquisition of student data. Such notification will include the following steps:

Upon discovery by the Contractor of a breach of student data, the Contractor shall conduct an investigation and restore the integrity of its data systems and, without unreasonable delay, but not more than thirty (30) days after such discovery, shall provide the Board with a more detailed notice of the breach, including but not limited to the date and time of the breach; name(s) of the student(s) whose student data was released, disclosed or acquired; nature of and extent of the breach; and measures taken to ensure that such a breach does not occur in the future.

7. Student data shall not be retained or available to the Contractor upon expiration of the contract between the Contractor and Board, except a student, parent or legal guardian of a student may choose independently to establish or maintain an electronic account with the Contractor after the expiration of such contract for the purpose of storing student- generated content.
8. The Contractor and Board shall each ensure their own compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, as amended from time to time.
9. The Contractor acknowledges and agrees to comply with the above and all other applicable aspects of Connecticut's Student Data Privacy law according to Connecticut General Statutes §§ 10-234aa through 10-234dd.
10. The Parties agree that this Agreement controls over any inconsistent terms or conditions contained within any other agreement entered into by the Parties concerning student data.

SOLUTION LICENSE AGREEMENT

THIS SOLUTION LICENSE AGREEMENT (this “Agreement”) is entered into as of March 29, 2022 (the “Effective Date”), by and between DecisionEd Group, Inc., a Texas Corporation (“DecisionEd”), and New Haven Public Schools (“Client”).

WHEREAS, Client desires to license and use the Technology (as defined below) in its organization; and

WHEREAS, the parties desire to enter into this Agreement to establish their respective rights and obligations with respect to the license of the Technology and deployment thereof.

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

Section 1. Definitions.

Except as otherwise indicated, and unless the context otherwise clearly requires, the following terms shall have the meanings set forth below:

“Business Day” means any day other than a Saturday, Sunday or legal holiday in the State of Texas.

“DEG Software” means DecisionEd’s proprietary data management and reporting system software products and any and all Improvements thereto conceived or developed by DecisionEd or any other third party.

“Deliverables” means any one or more of the data items identified on Exhibit A in connection with Client’s use of the Technology.

“Documentation” means all materials, in written, computer readable or other form containing information about the Technology and/or the Software that accompany the Technology, or that DecisionEd may provide during the term of this Agreement.

“IBM Software” means the IBM business analytics software that is provided for use in connection with the Technology.

“Improvements” means any amendments, modifications, derivative works, revisions, changes, customizations or other improvements.

“Intellectual Property Rights” means all worldwide: (a) patents, patent applications and other patent rights; (b) rights associated with works of authorship, including copyrights, trademarks, registrations and applications for registration of trademarks and copyrights, mask work rights, mask work applications and mask work registrations; (c) rights relating to the protection of trade secrets and confidential information; (d) rights analogous to those set forth herein and any other proprietary rights relating to intangible property; and (e) divisions, continuations, renewals, reissues and extensions of the foregoing (as applicable), now existing or hereafter filed, issued, or acquired.

“Product” means collectively the product parts identified on Exhibit B attached hereto which control the scope of and limit Client’s use of the Technology to identified users.

“Software” means collectively the DEG Software and the IBM Software.

“Technology” means the combination of the DEG Software and the IBM Software as an integrated solution or application.

Section 2. Technology Deployment.

(a) *Deployment Responsibilities.* DecisionEd will perform the necessary processes to make the Technology available for use by Client. In connection with such deployment, Client agrees to (i) provide access to network, systems and required data to support deployment related tasks, (ii) provide appropriate and reasonable workstations and work area(s) for DecisionEd resources; and (iii) ensure offsite access to network, systems and required data is granted to DecisionEd resources via VPN or suitable secured connection method for offsite work.

(b) *Testing of Deliverables.* Any defects in the Deliverables will be corrected as part of DecisionEd’s maintenance and support pursuant to Section 5 hereof.

(c) *Dependence.* Each of the parties will work together in good faith to carry out its responsibilities hereunder. Client acknowledges that DecisionEd’s deployment of the Technology and delivery of the Deliverables are dependent on the timely and satisfactory completion of Client’s responsibilities, the accuracy and completeness of any assumptions given to DecisionEd, the Client providing DecisionEd with reliable, accurate and complete data and the Client providing timely decisions and obtaining required management or board approvals as required.

(d) *Accuracy of Data.* DecisionEd will be entitled to rely on all data provided to it by Client as being true, complete and not misleading. DecisionEd will not be responsible for the consequences of any of the information provided to it in the course of Technology deployment being incomplete, inaccurate, not current or otherwise deficient.

(e) *Subcontractors.* Client may in its reasonable discretion use independent contractors to assist in implementation of the Technology, provided that notwithstanding anything set out in this Agreement, Client will remain primarily responsible to DecisionEd for all obligations, compliance, acts, and omissions of any such independent contractors with the terms and conditions of this Agreement, including without limitation the confidentiality provisions of Section 7.

Section 3. Grant of License; Ownership and Use Restrictions.

(a) *License.* Subject to the terms and conditions of this Agreement, and upon payment of all applicable license fees, DecisionEd hereby grants to Client a limited, non-exclusive, non-transferable, non-sublicensable license to install and use the DEG Software and the IBM Software as an integrated solution or application in machine-readable object code form only for purposes relating solely to Client’s internal operations. DecisionEd further grants to Client a limited, non-exclusive, non-transferable, non-sublicensable license to use the Documentation in connection with Client’s use of such Software.

(b) *Use of IBM Software.* Use of the IBM Software is subject to a separate license agreement which can found at <http://www-03.ibm.com/software/sla/sladb.nsf>. Client agrees to be bound by the applicable terms of such license agreement when using the IBM Software, which such terms are incorporated herein by reference.

(c) *Scope of Use.* Client's use of the Technology and/or Software may not exceed the applicable use restrictions associated with the license fees paid by Client hereunder for the Products purchased. Further, all IBM Software may only be used in conjunction with the DEG Software as part of the Technology.

(d) *Back-Up Copies.* Client may make one copy of the Software solely for the back-up or archival purposes, provided that such copy must contain all proprietary notices affixed to or appearing in the original copy.

(e) *Ownership.* Client hereby acknowledges that the Software, all Improvements, all Intellectual Property Rights protecting or pertaining to any aspect of the Software (or any Improvements), and the Documentation, are and shall remain the sole and exclusive property of DecisionEd and, where applicable, IBM. This Agreement does not convey title or ownership to Client, but instead gives Client only the limited right to use the Software and/or the Technology, strictly in accordance with the express provisions, and under the express limitations, contained in this Agreement. DecisionEd reserves all rights not expressly granted by this Agreement.

(f) *Restrictions.* Except as expressly set forth in this Agreement, Client has no right to use, make, sublicense, modify, transfer, rent, lease, sell, display, distribute or copy originals or copies of the Software or Documentation, or to permit anyone else to do so. In addition, Client will not reverse engineer, unencrypt, disassemble, decompile or otherwise translate the Software or allow anyone else to do it.

(g) *Proprietary Notices.* Client shall not remove any patent, copyright or trademark or other intellectual property notices that may appear on any part of the Software or Documentation.

(h) *Audit Rights.* Client authorizes DecisionEd or its designee to audit its compliance with this Agreement, as DecisionEd deems reasonable.

(i) *Irreparable Harm.* Client acknowledges that money damages may not be an adequate remedy for any breach or violation of any requirement set forth in this Section 3 and that any such breach or violation may leave DecisionEd without an adequate remedy at law. Client therefore agrees and acknowledges that any such breach or violation or threatened breach or violation will cause irreparable harm to DecisionEd and that, in addition to any other remedies that may be available, in law, in equity or otherwise, DecisionEd shall be entitled to obtain both temporary and permanent injunctive relief against the threatened breach or violation of this Section 3 or the continuation of any such breach or violation, without the necessity of proving actual damages or posting bond or other security (*to the extent that DecisionEd is required to post bond or other security, the parties agree and stipulate that \$1,000 is sufficient for such bond or other security*).

Section 4. License Fee.

(a) *License Fee.* In consideration of the undertakings of DecisionEd to deploy the Technology and the license of the DEG Software and the IBM Software as an integrated solution or application as granted herein, Client agrees to pay to DecisionEd a license and deployment fee (the "License Fee") for Products purchased as set forth on Exhibit B attached hereto (the "Pricing Summary"). The License Fee shall be due and payable to DecisionEd within thirty (30) days of the Effective Date. Subject to Section 6, upon payment in full of the License Fee, the license to use the Software as provided herein will be perpetual.

(b) *Payment of Invoices.* Any invoices provided by DecisionEd to Client hereunder shall be payable by Client within thirty (30) days of receipt thereof.

Section 5. Maintenance and Support.

(a) During the term of this Agreement, Client may purchase maintenance and support of the Technology (which includes the DEG Software and the IBM Software but solely as an integrated solution or application) by DecisionEd in one year increments at DecisionEd's current rates. Rates for any annual maintenance and support terms pre-purchased by Client will be locked-in and not subject to rate increases, if any. Such maintenance and support fees ("Support Fees") will be due and payable prior to the expiration of Client's current maintenance and support term(s). If any Support Fees are received by DecisionEd after expiration of such term, Client will be subject to a reinstatement fee at DecisionEd's current rates. The Support Fee for the first twelve (12) months after the Effective Date is included in the License Fee. So long as Client is current in the payment of its Support Fees, DecisionEd will provide maintenance and support for the Technology during the term of this Agreement as set forth in this Section 5. The period of time that DecisionEd provides such maintenance and support will be referred to herein as the "Maintenance Period."

(b) During the Maintenance Period, DecisionEd will provide updates as they become commercially available to the DEG Software and the IBM Software and use commercially reasonable efforts to correct any defects in the Technology identified by Client, at no additional charge to Client.

(c) In addition, during the Maintenance Period, DecisionEd will provide Client consulting support on the technical details of the Technology. DecisionEd shall use commercially reasonable efforts to promptly answer any question communicated to DecisionEd by Client during Business Days. All consulting support inquiries shall be submitted to DecisionEd via e-mail, facsimile or telephone during the hours of 9:00 a.m. and 5:00 p.m., Central Standard Time, on Business Days or at such other times as DecisionEd shall agree to take such inquiries.

(d) Additional support for custom developed services may be arranged between the parties at mutually agreed upon terms and rates as required.

Section 6. Termination.

(a) *Termination by DecisionEd or Client.* This Agreement may be terminated by either party in the event of a material breach of this Agreement by the other party that is not cured within 30 days after notice of the breach by the party seeking to terminate this Agreement.

(b) *Termination by DecisionEd.* DecisionEd may immediately terminate this Agreement upon written notice in the event Client breaches any of the provisions of Section 3 of this Agreement.

(c) *Effects of Termination.* In the event of termination of this Agreement by DecisionEd pursuant to Sections 6(a) or 6(b) above, Client will immediately cease utilizing the Technology and/or the Software, and will immediately return to DecisionEd or destroy all copies of the materials embodying the Technology and/or the Software, and remove the Technology and/or the Software from all media in Client's custody, possession or control. If Client otherwise retains or continues using any portion of the Technology and/or Software after termination of this Agreement, DecisionEd shall be entitled to obtain both temporary and permanent injunctive relief, without any bond, and irreparable harm shall be presumed. Termination shall not relieve Client from paying all amounts accrued under this Agreement prior to termination and shall not limit DecisionEd from pursuing any other available remedies.

(d) *Survival.* The following Sections of this Agreement shall survive the termination of this Agreement for any reason: Sections 3(b), 3(e), 3(f), 3(g), 3(h), 3(i), 7, 8 and 10 and this Section 6(d).

Section 7. Confidentiality.

(a) *Confidential Information Defined.* During the term of this Agreement, it is contemplated that Client will disclose to DecisionEd, and DecisionEd will disclose to Client, certain confidential and proprietary information. Confidential Information may be communicated orally, visually, in writing or any other recorded or tangible form. As used in this Agreement, “Confidential Information” means information identified by the disclosing party orally or in writing as confidential at the time of disclosure, information marked as confidential, personal data, plans, specifications, and any other data or information which the receiving party has reason to believe the disclosing party would not want disclosed to the public or to a third party, or tending to give the disclosing party a commercial advantage. Confidential Information shall not, however, include any information which (1) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (2) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (3) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party’s files and records immediately prior to the time of disclosure; (4) is obtained by the receiving party from a third party without a breach of such third party’s obligations of confidentiality; (5) the receiving party can establish was developed independently by it without use, directly or indirectly, of any Confidential Information; or (6) is required by law to be disclosed by the receiving party, provided that the receiving party shall give the disclosing party written notice of such requirement prior to disclosure so that the disclosing party may, at its expense, seek a protective order or other appropriate relief.

(b) *Use of Confidential Information.* Each party agrees not to use any Confidential Information of the other party for any purpose except for purposes of this Agreement. Each party agrees not to disclose any Confidential Information of the other party to third parties or to such party’s employees, officers, directors, agents, consultants, contractors, advisors, lenders, accountants and attorneys (collectively “Agents”), except to those Agents of the receiving party who are required to have the information for purposes of this Agreement. Client shall not reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody DecisionEd’s Confidential Information and which are provided to Client hereunder. To the extent Client breaches this agreement by using DecisionEd’s Confidential Information in a non-permissible way, any inventions, improvements, or other intellectual property resulting from such non-permissible use will be the property of DecisionEd. Client will and does hereby automatically assign, grant and convey to DecisionEd any and all rights, title and interest in such new intellectual property, at the time of creation of any such work, without a requirement of further consideration, and regardless of any right, title or interest the breaching party may have in any such work. Client further agrees that upon request, Client will execute a written assignment of such new intellectual property to DecisionEd.

(c) *Maintenance of Confidentiality.* Each party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the foregoing, each party shall take at least those measures that it takes to protect its own most highly confidential information (which shall not be less than measures requiring strict confidence) and shall ensure that its Agents who have access to Confidential Information of the other party have signed a non-disclosure agreement having provisions at least as restrictive as those set forth in this Agreement prior to any disclosure of Confidential Information to such Agents. Neither party shall make any copies of the Confidential Information of the other party unless the other party approves the same previously in writing. Each party shall reproduce the other party’s proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original.

(d) *Remedies.* Each party agrees that its obligations in this Section are necessary and reasonable in order to protect the other party and the other party's business, and expressly agrees that monetary damages would be inadequate to compensate the other party for any breach by either party of any covenants and agreements set forth herein. Accordingly, each party agrees and acknowledges that any such violation or threatened violation will cause irreparable injury to the other party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the other party shall be entitled to obtain both temporary and permanent injunctive relief against the threatened breach of this Section or the continuation of any such breach, without the necessity of proving actual damages or posting bond or other security (*to the extent that either party is required to post bond or other security, the parties agree and stipulate that \$1,000 is sufficient for such bond or other security*).

Section 8. Warranty Disclaimer and Limitation of Liability.

(a) *Technology Provided "As Is."* Except as may be specified herein, DecisionEd does not warrant that the Technology will meet any particular standards or requirements or that Client's use of the Technology will be uninterrupted or error free. THE TECHNOLOGY, THE SOFTWARE AND THE DOCUMENTATION ARE DELIVERED AND LICENSED "AS IS".

(b) **DECISIONED AND ITS LICENSORS HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE TECHNOLOGY AND THE SOFTWARE, EITHER EXPRESS OR IMPLIED, BY STATUTE OR OTHERWISE, INCLUDING IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.**

(c) NEITHER DECISIONED NOR ITS LICENSORS SHALL BE LIABLE HEREUNDER FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOSS OF GOODWILL OR REPUTATION, LOST REVENUES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE, IN EACH CASE WHETHER ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE AND HOWSOEVER INCURRED.

(d) IN NO EVENT SHALL DECISIONED'S OR ITS LICENSORS AGGREGATE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT, OR USE OF THE TECHNOLOGY OR SOFTWARE, INCLUDING ANY CAUSE OF ACTION BASED ON WARRANTY, CONTRACT, TORT, STRICT LIABILITY, INFRINGEMENT OF THIRD PARTY RIGHTS OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY, EXCEED THE AMOUNT OF THE LICENSE FEE ACTUALLY PAID BY CLIENT TO DECISIONED HEREUNDER.

Section 9. Insurance.

Upon or prior to the Effective Date, DecisionEd will obtain and maintain in effect during the term hereof, at its own expense, general liability insurance coverage, which insurance will be in the amount of no less than \$2,000,000.

Section 10. Miscellaneous Provisions.

(a) *Assignment.* Client shall not have the right to assign or otherwise transfer its rights or obligations under this Agreement or its rights to the Software and/or Technology without the prior written

consent of DecisionEd. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

(b) *Notices.* All notices or other communication required or permitted to be given hereunder must be in writing and given by personal delivery, facsimile or e-mail transmission (if contact information is provided for the specific mode of delivery), or first class mail, postage prepaid, sent to the addresses set forth herein.

(c) *Counterparts.* This Agreement may be executed in the original or by facsimile and/or in one or more counterparts, each of which shall be deemed an original.

(d) *Entire Agreement; Amendments; Waivers.* This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof and supersedes all prior communications, representations or agreements, oral or written, by the parties relating thereto. This Agreement may be amended and the observance of any provision of this Agreement may be waived (either generally or in any particular instance and either retroactively or prospectively) only with the signed written consent of both parties. Neither failure nor delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver of such right, nor shall any single or partial exercise of any such right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege.

(e) *Severability.* Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

(f) *Headings.* The headings, captions, and arrangements used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

(g) *Export Regulations.* Client acknowledges that the Software and the Documentation are subject to U.S. export control laws. Client agrees that it will comply with all such laws and will not export the Software or Documentation outside of the U.S. without the prior written consent of DecisionEd.

(h) *Governing Law; Venue and Jurisdiction.* THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS LOCATED IN DALLAS COUNTY, TEXAS FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(i) *WAIVER OF JURY TRIAL.* EACH OF DECISIONED AND CLIENT HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(j) *Force Majeure.* Neither party shall be liable for any delay due to causes beyond its reasonable control, such as acts of God; fire; explosion; flood; windstorm or other unusually severe weather condition; strike, work stoppage or other labor dispute; riot; acts of terrorism; breakdown of or damage to equipment or facilities; a change in law; or any action or restraint by court order or public or governmental authority (each, a “Force Majeure Event”). A lack or unavailability of money shall not constitute a Force Majeure Event.

(k) *Independent Contractors.* DecisionEd and Client agree that they are independent contractors, each without the power or authority to bind, contract or commit the other, and will always represent themselves to any third parties only as independent contractors without such power or authority. The parties are not, and nothing in this Agreement shall be interpreted that the parties are, partners, joint venturers, co-owners or otherwise participants in a joint or common undertaking.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Client:

New Haven Public Schools

By: _____
Name: _____
Title: _____

Address for Notice:

Attn: _____

Facsimile: _____
E-mail: _____

DecisionEd:

DecisionEd Group, Inc.,
a Texas corporation

By: _____
Name: _____
Title: _____

Address for Notice:

DecisionEd Group, Inc.
Attn: Deborah Mason
9901 Valley Ranch Parkway East, Suite 1060
Irving, TX 75063

Facsimile: _____
E-mail: _____

EXHIBIT A

Deliverables

[see attached Product Description]

Exhibit A

PRODUCT DESCRIPTION

K-12 Performance Management Classroom/Student

Part Numbers: DPMFS-A, DPMFS-B, DPMFS-C, DPMFS-D, DPMFS-E, DPMFS-F

Overview

The DecisionEd *K-12 Performance Management Classroom/Student* provides all functionality of the Administrators option along with licenses and components for classroom staff. With an industry leading data model, information from systems across the district is integrated into a single repository for ease of reporting and dashboard views. Pre-built dashboards and reports provide immediate value with delivery of information to stakeholders for data driven decisions.

Perpetual License with First Year Support

Included are perpetual licenses for the DecisionEd *K-12 Performance Management Classroom/Student* and IBM Cognos® software for **server administration, report development, query development, dashboard development, and end user access** for all district employees, students and parents.

Data Subject Areas

When viewing results, it is critical to be able to structure results with factors that impact the success of the educational process.

The following subject areas are included:

- Student Assessments
- Student Attendance
- Student Marks and GPA
- Student Interventions
- Student Program Participation
- Staff Credentials
- Finance
- Staff Evaluations
- Student Post Graduation
- Student Enrollment
- Student Behavior
- Student Transcripts
- Student Special Education
- Staff Job Assignments
- Staff Attendance
- Staff Professional Development
- Survey Results

Data Load Processes

Included are data extractors which will load source data (typically on a nightly basis) into the Data Warehouse. These extractors are specific to your source systems and harvest not only standard data, but user defined fields. Extractors load from source systems for all identified Subject Areas.

Dashboards

Role-based dashboards with drag-n-drop functionality for customization. Dashboards designed for District Administrators, School Administrators, Research and Accountability, and program areas. Monitor key indicators at a glance.

Classroom Support

Includes reports, dashboards, and security structures for deployment to teachers. Default security rules limit teachers' access to only those students who are scheduled into their sections.

Reports

Over 600 reports which cover subject areas and provide views across subject areas. Extensive support is provided for cohort definition and tracking including the Flexible Cohorts facility which allows for the definition of unlimited groups over multiple years of data.

Alerts

Using the interactive graphical interface, users are able to define alerts to data conditions and automatically send notices to stakeholders.

Security Roles

Contained within the product are predefined security roles which have pre-built rules for object, capability, and data security. Rules for existing roles may be modified by the district or new roles created.

History Load

History will be loaded as part of the deployment process. DecisionEd uses a data inventory process as part of the deployment to determine available and relevant data to be initially loaded. Working with the district a mutually agreed on schedule of data to be loaded is defined.

Deployment Process

A deployment manager is assigned from DecisionEd which provides the primary point of contact throughout the deployment process. Leading the deployment through a proven approach developed on DecisionEd's years of experience implementing K-12 Performance Management ensures a predictable, timely use of the tools.

Support for the First Year

Product support is included for the first year from contract execution. Support includes all new releases of DecisionEd and related IBM product releases installed on your system. Direct access to DecisionEd staff for problem resolution and assistance is provided.

Training

Multiple training events are included to address multiple levels of users within the district. On-site classes are provided for General Access, Power User, and Professional Report Developer. Expertise transfer sessions are included for server administration and installation processes for recovery purposes.

Report / Query Development Tools

A full selection of tools is included for districts to develop their own queries, dashboards, and reports via the IBM Cognos toolset. The graphical based toolsets are covered during the training sessions and provide a wide functionality range from casual user through the most advanced user.

Mobile Device Support

Access may be via browsers or mobile devices. An iPad app is available on the Apple App Store. Blackberry support downloads from the included Cognos Mobile server.

Exhibit B

Valid until March 30, 2022

Prepared for: Michael V. Fumiatti New Haven Public Schools 200 Orange Street, Room 301 New Haven, CT 06510 P: 203-946-8201	Prepared by: Brady Field, Senior Account Manager DecisionEd Group 9901 Valley Ranch Parkway East, Suite 1060 Irving, TX 75063 P: (972) 591-6705 E: brady.field@DecisionEd.com
--	--

Prepared on January 3rd, 2022

Proposed Product:

Part Number	Description	Price
DPMFS-E	K12 Performance Management – Classroom/Student	\$290,800

Current Enrollment: Approximately 20,000

Pricing Terms: Net 30

Support: First 12 months from contract date included.

Year 2 - \$58,200

Classroom/Student License Features:

- Classroom/Student license includes all Administrators + Teachers + Students/Parents
- All deployment activities, training activities and travel costs are included
- No additional cost based on user counts
- Perpetual License for DecisionEd K-12 Performance Management software
- No restrictions on number of Assessments loaded, as long as under support
- District is responsible for providing Hardware, OS, and SQL Server
- Custom reporting not included

Pricing is for a nontransferable license granted in perpetuity and is subject to terms and conditions included in the DecisionEd Solution Agreement. Completion of the order requires an executed DecisionEd Solution Agreement and Purchase Order. Price does not include local taxes.

For: Office Use Only

Vendor No.	Date Entered
------------	--------------

Mail Fax Email

Vendor:

CITY OF NEW HAVEN
 Department of Education
 54 Meadow St., New Haven, CT 06519
VENDOR PURCHASE ORDER

P.O.
▲ This number must appear on all invoices and package of shipment

**PURCHASE ORDERS NOT
 COMPLETED AND DELIVERED
 WITHIN 60 DAYS ARE
 AUTOMATICALLY CANCELLED**

SPECIAL FUNDS

Fiscal Year:

Deliver To:

Date Prepared	Fund	Agency	Program	Object	Project Code
		900			

Quantity	Description	Unit Cost	Total Cost
PLEASE NOTIFY BUSINESS OFFICE IF YOUR TOTAL COST EXCEEDS OUR TOTAL AMOUNT BEFORE SHIPPING			

Authorized Supervisor's Signature <i>Michele Skuban</i>	Business Office Approval	Principal's Signature	TOTAL AMOUNT	
Date:	Date:	Date:	SUBMIT PURCHASE ORDERS TO: SpecialfundsPO@new-haven.k12.ct.us	

FOR PAYMENT: Send Your Invoice Electronically or By Mail:
 Email: NHinvoice@newhavenct.gov
 Mail: New Haven Public Schools, Attn: Dept. of Special Funds
 54 Meadow Street, New Haven, CT 06519
 Fax: 1-203-946-5740