

**Adams 12 Five Star Schools
Data Privacy Addendum**

The provisions of this Data Privacy Addendum are a part of the Independent Contractor Agreement and apply to all Contractors that will or may have access to personally identifiable student information. The Independent Contractor Agreement consists of the BrainPOP LLC ("Contractor") Terms of Use and Privacy Policy which govern use of the Products (BrainPOP, BrainPOP Jr., BrainPOP ELL, BrainPOP Espanol, and BrainPOP Francais) as posted at www.brainpop.com and as updated from time to time.

1. Covered Data

As used in this addendum, student personally identifiable information (PII) means any and all data or information collected, maintained, generated or inferred that alone or in combination personally identifies an individual student or the student's parent or family, in accordance with C.R.S. § 22-16-103(13) & 34 C.F.R. § 99.3.

2. Compliance with State and Federal Law

All data sharing, use, and storage will be performed in accordance with the requirements of the Family Educational Rights and Privacy Act of 1974 as amended, 20 U.S.C. § 1232g & 34 C.F.R. § 99 ("FERPA") and the Colorado Student Data Transparency and Security Act, C.R.S. § 22-16-101, *et seq.*

3. Contractor Obligations:

- 3.1 *Uses and Disclosures as Provided in the Agreement.* Contractor may use and disclose the student PII provided by the District only for the purposes described in the Agreement and only in a manner that does not violate local or federal privacy regulations. Only the individuals or classes of individuals will have access to the data that need access to the student PII to do the work described in the Agreement. Contractor shall ensure that any subcontractors who may have access to student PII are contractually bound to follow applicable federal and state laws. Vendor shall be responsible for Vendor's subcontractors' acts or omissions that cause Vendor to breach any of Vendor's obligations hereunder.
- 3.2 *Nondisclosure Except as Provided in the Agreement.* Contractor shall not use or further disclose the student PII except as stated in and explicitly allowed by the Agreement and state and federal law. Contractor does not have permission to re-disclose student PII to a third party.
- 3.3 *Safeguards.* Contractor agrees to take appropriate administrative, technical and physical safeguards to protect the security, privacy, confidentiality, and integrity of student PII. Contractor shall ensure that student PII is secured and encrypted to a commercially reasonable extent during use, storage and/or transmission. Contractor agrees that student PII will be stored on servers located in the United States.
- 3.4 *Reasonable Methods.* Contractor agrees to use "reasonable methods" to ensure to a commercially reasonable extent that Contractor and all parties accessing student PII are compliant with state and federal law. Specifically, this means that only de-identified student PII may be used for the purposes of educational research and Contractor must protect student PII from re-identification, further disclosures, or other uses, except as authorized by

the District in accordance with state and federal law. Approval to use student PII for one purpose does not confer approval to use it for another.

- 3.5 *Data Destruction.* Student PII must be destroyed in a secure manner or returned to the District at the end of the work described in the Agreement. Contractor agrees to send a written certificate that the data was properly destroyed or returned within 30 days of the end of the work as described in the proposal. Additionally, during the term of the Agreement, Contractor shall destroy student PII upon request of the District as soon as practicable. Contractor shall destroy student PII in such a manner that it is permanently irretrievable in the normal course of business.
- 3.6 *Minimum Necessary.* Contractor attests that the student PII requested represents the minimum necessary data for the services as described in the Agreement.
- 3.7 *Authorizations.* When necessary, Contractor agrees to secure individual authorizations to maintain or use the student PII in any manner beyond the scope or after the termination of the Agreement.
- 3.8 *Data Ownership.* The District is the data owner of student PII. Contractor does not obtain any right, title, or interest in any of the student PII data furnished by the District.
- 3.9 *Misuse or Unauthorized Release.* Contractor shall notify the District as soon as possible upon discovering the misuse or unauthorized release of student PII held by Contractor or one of its subcontractors, regardless of whether the misuse or unauthorized release is the result of a material breach of the Agreement.
- 3.10 *Data Breach.* In the event of a data breach, Contractor will assist the District in contacting and informing any parties, including students, which may have been affected by the security incident. Contractor will promptly notify the District upon the discovery of any data breach.

4. Prohibited Uses

- 4.1 Contractor shall not sell student PII; use or share student PII for purposes of targeted advertising; or use student PII to create a personal profile of a student other than for accomplishing the purposes described in the Agreement.
- 4.2 Notwithstanding the previous paragraph, Contractor may use student PII to ensure legal or regulatory compliance or take precautions against legal liability; respond to or participate in the judicial process; protect the safety of users or others on Contractor's website, online service, or application; or investigate a matter related to public safety. Contractor shall notify the District as soon as possible of any use described in this paragraph.

5. School Service Contract Provider Additional Provisions

If Contractor is a School Service Contract Provider – defined in C.R.S. § 22-16-103 as an entity that enters into a contract with the District to provide a website, online service, or application that is

designed and marketed primarily for using in a school and collects, maintains or uses student PII – the following provisions shall apply:

- 5.1 *Data Collection Transparency and Privacy Policy.* The Independent Contractor Agreement as posted at www.brainpop.com provides clear information that is understandable by a layperson explaining the data elements of student PII that Contractor collects, the learning purpose for which it collects the student PII, and how Contractor uses and shares the student PII. The information includes all student PII that Contractor collects regardless of whether it is initially collected or ultimately held individually or in the aggregate. Contractor shall provide the District with a link to the information on a webpage maintained and updated by Contractor so that the District may post the link on its website.
- 5.2 *Notice Before Making Changes to Privacy Policy.* Contractor shall provide notice to the District before making material changes to Contractor's privacy policy that affects student PII.
- 5.3 *Access to Student PII.* Upon reasonable request by the District, Contractor agrees to provide in a readable electronic format a copy of all student PII maintained by the Contractor for individual students.
- 5.4 *Correction of Inaccurate Student PII.* Contractor shall facilitate access to and correction of any factually inaccurate student PII in response to a request for correction that the District receives.
- 5.5 *Grounds for Termination.* Contractor understands that any breach by Contractor or any subcontractor of this addendum, state or federal law regarding student PII, or the Contractor's privacy policy described above, may be grounds for termination of the Agreement in accordance with C.R.S. § 22-16-107(2)(a).

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have executed contemporaneously with the Agreement:

BrainPOP LLC
Vendor Name
H. Scott Kirkpatrick Jr.
Signature
H. Scott Kirkpatrick Jr., CEO
Name and Title
10/16/2020
Date

**ADAMS 12 FIVE STAR SCHOOLS
IN THE CITY OF THORNTON, COUNTY OF ADAMS
STATE OF COLORADO**

Gail Gaskins
Site Administrator's Signature
Gail Gaskins, Buyer
Name and Title
10-16-20
Date