

**AMENDMENT TO DATA PRIVACY AGREEMENT**

THIS AMENDMENT TO DATA PRIVACY AGREEMENT (hereinafter "Amendment") is entered by and between the Jefferson County Board of Education, a political subdivision of the Commonwealth of Kentucky doing business as the Jefferson County Public Schools (hereinafter "JCPS") with its principal place of business located at 3332 Newburg Road, Louisville, Kentucky 40218, and ThinkCERCA.com, Inc, with its principal place of business located at 980 N Michigan Ave Suite 1400 PMB 228 Chicago IL 60611 (hereinafter "Provider").

WHEREAS, The Parties have entered into a Data Privacy Agreement between JCPS, and Contractor dated June 28, 2023, which provided for the sharing of data between JCPS and Contractor (the "Agreement"); and

WHEREAS the Parties wish to amend the services and compensation sections of the agreement.

THEREFORE, the Parties wish to amend the Agreement to alter the Exhibit "A".

This Amendment hereby amends Exhibit A Description of Services to remove the Description of Services in its entirety and replace it with the following Description of Services: "Provider shall provide software licenses and support for the following products at prices equal or below Provider's standard pricing rates for the products:

Proposal Items	Quantity	License Fee	2024 - 2025 School Year 1-Year Contract
ThinkCERCA <i>Writing Across the Curriculum + Intervene &amp; Accelerate</i> : Per Student License Fee  Student access to all supplemental resources for ELA, Social Studies, Science, and Math in the ThinkCERCA platform, as well as access for all teachers and administrators who serve those students.  <b>THIS LICENSE ALSO</b> Includes Longer Works Novel Guides, Foundational Reading & Linguistics Course, and any other additional courses that may be added to the platform including our AP Coursework.	40,000	<del>\$35.00</del> \$27.00	\$1,080,000
Custom State-Aligned Multi-Text Benchmarks, 3 x Year, Grades 3-12	30		\$25,000
Curriculum Alignments			Included
District Implementation Support			Included
Custom District Professional Learning			\$125,000
Benchmark Evaluation Services: Per Student, BOY, MOY & EOY, Grades 5, 8 & 11	18,500	\$12.00 (\$4/eval.)	\$222,000
<b>TOTAL Contract Price</b>			<b>\$1,452,000</b>

This Amendment hereby amends Exhibit A Compensation to add "Funds for purchase shall come from account code TI12202-0322-310L. Total payments under this DPA shall not exceed \$1,452,000 , for FY25 with costs for FY26 to be determined later."

All other provisions of the Agreement shall remain unchanged. This Amendment is the entire agreement of the parties regarding modifications of the Agreement provided herein, supersedes all prior agreements and understandings regarding such subject matter, may be modified only by a writing executed by the parties and their respective successors, legal representatives and assigns. The Agreement is ratified and confirmed in full force and effect in accordance with its terms, as amended hereby. In the event of any conflict between the terms of the Agreement and this Amendment, the provisions of this Amendment shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the dates below to be effective as of November 12, 2024.

**Jefferson County Public Schools:**

ThinkCERCA.com, Inc

By: \_\_\_\_\_  
Dr. Martin A. Pollio  
Superintendent

By: Eileen Murphy  
Eileen Murphy  
Founder and CEO

Date: \_\_\_\_\_

Date: 10/15/2024  
\_\_\_\_\_



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/24/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Marsh & McLennan Agency LLC 20 North Martingale Road Suite 100 Schaumburg IL 60173	<b>CONTACT NAME:</b> Select Commercial <b>PHONE (A/C, No, Ext):</b> (847) 797-5700 <b>E-MAIL ADDRESS:</b> MWIL.FaxPCSelect@MarshMMA.com	<b>FAX (A/C, No):</b> (847) 440-9133	
	<b>INSURER(S) AFFORDING COVERAGE</b>		
<b>INSURED</b> ThinkCERCA.com, Inc 980 N Michigan Ave Suite 1400 PMB 228 Chicago IL 60611	THININC-01	<b>INSURER A:</b> Travelers <b>INSURER B:</b> CFC Underwriting at Lloyds <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	<b>NAIC #</b> 27998

**COVERAGES**

CERTIFICATE NUMBER: 1760034941

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		6800Y6821542442	2/20/2024	2/20/2025	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
A	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			6800Y6821542442	2/20/2024	2/20/2025	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 5,000			CUP0Y6822102442	2/20/2024	2/20/2025	EACH OCCURRENCE	\$ 2,000,000
							AGGREGATE	\$ 2,000,000
								\$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			UBOY6821912442G	2/20/2024	2/20/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	\$ 1,000,000 \$ 1,000,000 \$ 1,000,000
B	Cyber & Tech E&O			ESM0639756165	8/21/2023	8/21/2024	Each Claim Aggregate	5,000,000 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: All work performed by the Named Insured on behalf of the Certificate Holder.

It is agreed that the following are added as Additional Insured, when required by written contract, on the General Liability and Hired and Non-Owned Automobile Liability with respect to operations performed by the Named Insured in connection with this project:  
 -Jefferson County Public Schools

Umbrella Policy Follows Form over the General Liability, Hired and Non-Owned Automobile Liability, and Workers Compensation policies

**CERTIFICATE HOLDER****CANCELLATION**

Board of Education of Jefferson County  
 Attn: Insurance/Real Estate  
 3332 Newburg Road  
 Louisville KY 40218

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



# ThinkCERCA

## Spark Courageous Thinking

PROPOSAL PREPARED FOR:

**Jefferson County Public Schools**

**SY '24-'25**

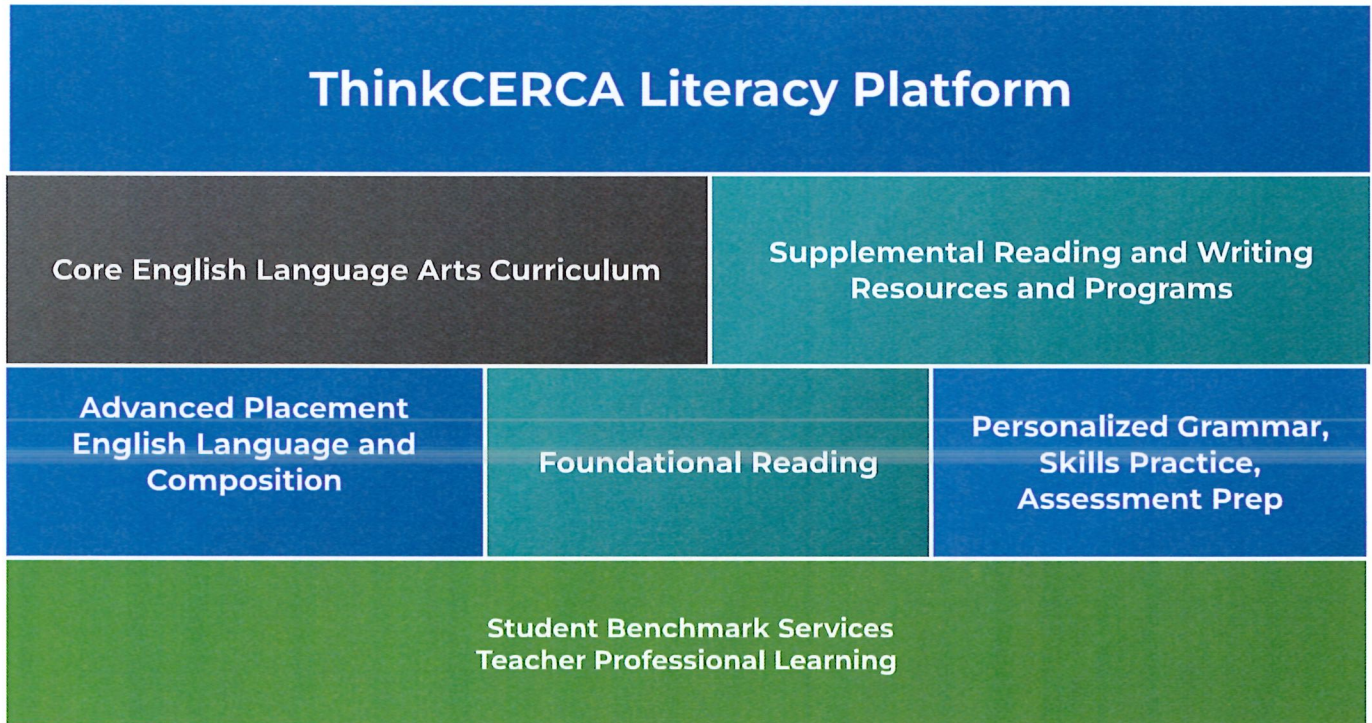
DATE:

June 2024

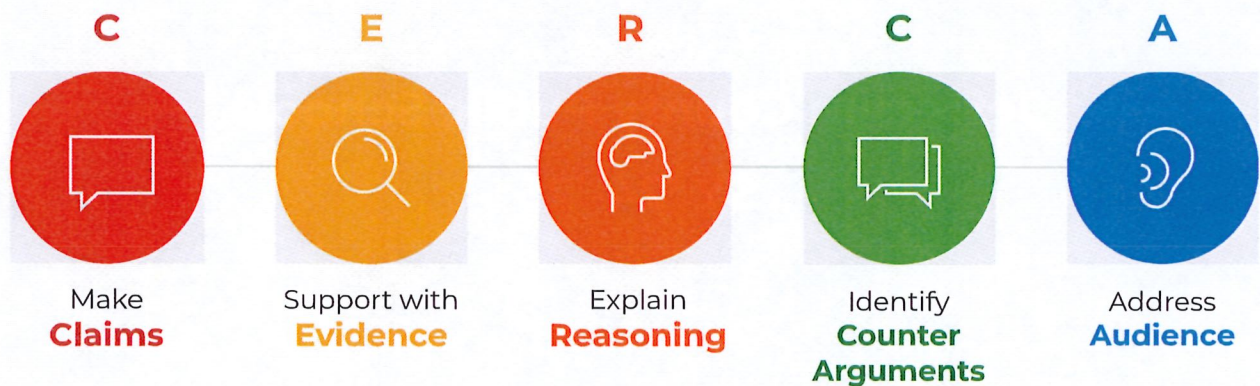


# ThinkCERCA

## Comprehensive and Coherent Literacy Instruction



**ThinkCERCA** began with the CERCA Framework as a common language for critical literacy. ThinkCERCA's instructional design empowers students to develop their critical thinking skills across disciplines using CERCA.



**Proposal Summary, Updated April 2024:**

**Writing Across the Curriculum + Intervene & Accelerate**

**Cost Summary**

Proposal Items	Quantity	License Fee	2024 - 2025 School Year 1-Year Contract
<p>ThinkCERCA <i>Writing Across the Curriculum + Intervene &amp; Accelerate</i>: Per Student License Fee</p> <p>Student access to all supplemental resources for ELA, Social Studies, Science, and Math in the ThinkCERCA platform, as well as access for all teachers and administrators who serve those students.</p> <p><b>THIS LICENSE ALSO</b> Includes Longer Works Novel Guides, Foundational Reading &amp; Linguistics Course, and any other additional courses that may be added to the platform including our AP Coursework.</p>	40,000	<del>\$35.00</del> \$27.00	\$1,080,000
Custom State-Aligned Multi-Text Benchmarks, 3 x Year, Grades 3-12	30		\$25,000
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<b>TOTAL Contract Price</b>			<b>\$1,452,000</b>

**Notes:**

1. This proposal is for the 2024/2025 school year; additional discounts on licenses are available on multi-year contracts. For a 3 year agreement, a discount of 7.5% will be applied to the Student License fee as detailed in the right-most column above. For a 5 year agreement, a 12.5% discount will be applied to the Student License fee. Contact your Success Manager for such a proposal.
2. The price per student license for *WAC + Intervene & Accelerate* is \$27, which includes a ~23% discount off the standard price (\$35).
3. The student Benchmark Evaluation Service included in the table above is for three-administrations (beginning-of-year, middle-of-year, and end-of-year) of professionally graded student assessments for all students grades 5, 8, and 11. Additional administrations (i.e. additional grade levels) are available at \$4 per student, per assessment administration.
4. Professional Learning: See following pages.

# Systematic Approach

## → A Common Language

### **CERCA (Claim, Evidence, Reasoning, Counterargument, Audience)**

To meet the demands of today's rigorous assessments and tomorrow's ever-changing world, students must be able to consume information, think about it critically, and express their points of view effectively — no matter the topic. We provide schools and districts with a common language for teaching literacy — specifically writing — across English language arts, social studies, science, and math.

## → Coherent Resources and Pedagogy Across Disciplines in Tiers 1 and 2

### **Engaging content designed for today's students**

With the adoption of more rigorous standards all across the nation, many schools and districts now recognize critical thinking as a must-have for mid-21st-century success. ThinkCERCA helps educators make the necessary instructional shifts to prepare students for success after high school.

Designed by master teachers and nationally recognized literacy experts, our curriculum is built upon proven methods for developing students' language and literacy skills. Our lesson library includes a range of close reading, academic writing, direct instruction, and additional skills practice lessons to meet the demands of new state standards.

## → Research-based, technology-enabled learning

### **A blended approach to pedagogy based on cognitive science**

Our multi-step, interactive lessons use cognitive chunking to help students work through complex texts and concepts while building upon high-level literacy skills. By practicing close reading and academic writing as a process in school, students develop the literacy and communication skills to express their ideas effectively in any personal, professional, academic, or civic setting.

## → Rigorous Texts and Tasks

### **A different approach to differentiation**

ThinkCERCA's differentiated curriculum makes it easy for teachers to challenge students with texts and tasks that are "just right" for them. Our lesson sets feature 10 leveled readings that are organized around a central, discipline-specific theme and open-ended question to engage all students. Notably, we **do not** dilute texts—our lessons features a real-world, authentic text. This gives students the practice with authentic texts they need to learn independently for success on the internet, in their college classrooms, and their future workplace.

# Curriculum, Instruction, and Assessment Resources

Resource	Description
<b>ThinkCERCA Core: Integrated English Language Arts Reading and Writing Core Curriculum (2023 Edition)</b>	ThinkCERCA's Core curriculum includes a comprehensive English Language Arts and Reading curriculum and extensive Tier 2 and 3 supplements. This curriculum is designed to provide teachers with comprehensive research-based resources for reading, writing, listening and speaking as well as language development. With support for all aspects of the instructional core, teachers have robust presentation resources, detailed facilitation notes, and professional development on-demand. The modular, month-long thematic units offer a wide selection of topics covering all ELA standards and offering students many opportunities to practice and receive feedback.
<b>ThinkCERCA Supplemental (Including ELA, Social Studies, Science &amp; Math)</b>	<p>A complete writing curriculum across grades 3-12, providing direct instruction, practice, and feedback on all genres of writing (argumentative, informational, narrative, and research writing.) Authentic grade-level texts and technology-enabled scaffolds, plus differentiated Direct Instruction, Skills practice, as well as Additional Reading Practice across all aspects of literacy. These resources enable ALL students to access complex texts and rigorous tasks.</p> <p>Additional foundational reading supports for grades 3-12 support all aspects of Scarborough's Reading Rope. Maturity-agnostic resources enable more mature readers to develop skills via accessible Tier 2 supports that are easily integrated into the Tier 1 experience.</p>
<b>Social Studies</b>	Each month we add to our collection of multi-text resources aligned to the C3 (College, Career, Civic Life) framework, making it easy to integrate literacy skill development into instruction in social studies content. <a href="#">The large and searchable collection</a> offers Direct Instruction, Skills Practice, Additional Reading Practice and Close Reading and Writing Opportunities.
<b>Science</b>	Our monthly releases of Science literacy resources allow science teachers to bring authentic scientific reading and writing experiences to their classrooms, while reinforcing literacy skills as a team. Without sacrificing their focus on content and skills in their discipline, science teachers can integrate content seamlessly into their coursework. Aligned to State standards and NGSS, these modules allow students to practice the methods of critical thinking in science in relevant and exciting ways.
<b>Math Supplement</b>	Math literacy includes opportunities to read and write in math, plus develop mathematical practices with real-world problems. As part of the literacy team, math teachers can seamlessly integrate these capstone writing experiences for deeper learning opportunities, showing students the real world use cases for the skills and topics they are learning.
<b>Assessment Resources</b>	Writing Benchmark Assessments with Professional Evaluation Services provide a series of benchmarking resources to enable districts to measure progress toward grade level and personalize growth plans. In addition, the feedback provided to students enables teachers to see models of normed evaluation and actionable and nurturing feedback for students. Quarterly ACT and SAT resources and AP Exam Preparation Supplements
<b>Curriculum Customization and Alignment</b>	<p>ThinkCERCA explorer tools make curriculum alignment simple. District and building leaders can also customize access for their community!</p> <p>Additional support from curriculum experts is also available. Thinkcerca can help create implementation schedules, and share recommended literacy routines, so teachers can seamlessly integrate ThinkCERCA into their practice.</p>



THINKCERCA'S

# Benchmark Evaluation Services

Service	District-wide Writing Benchmarks
<b>Professional Benchmark Evaluation</b>	ThinkCERCA's benchmark assessment evaluation services offer normed scoring and actionable feedback from our team of professional evaluators.
<b>Principal Benefits</b>	<p>A service that saves teachers time</p> <p>A schoolwide beginning of year baseline on writing performance</p> <p>A mid-year inventory of high-impact areas for focus in spring assessments</p> <p>An end of year data set to celebrate writing growth and begin strategic planning for the fall</p> <p>A repository of professionally scored student artifacts for internal norming and calibration to guide professional development in feedback on student writing across the team.</p> <p>A personalized growth focus and easy-to-implement resources for every student</p>
<b>Teacher Benefits</b>	<p>Non-high-stakes assessment opportunity to capture a full literacy picture</p> <p>Time savings on essay scoring</p> <p>Feedback that is normed and calibrated to standards</p> <p>Models of actionable and nurturing feedback for students</p> <p>Best-next-step lesson recommendations for personalized instructional experiences</p> <p>Multiple artifacts demonstrating growth</p>
<b>Student Benefits</b>	<p>Actionable and nurturing feedback</p> <p>Personalized growth focus areas</p> <p>Examples of the growth resulting from their efforts</p> <p>Professionally calibrated evaluation of writing performance</p>
<b>Professional Learning</b>	Customized support will be provided as a part of your Custom District Professional Learning package before, during and after administration windows. This support will be delivered in a mutually agreed upon manner and at a time the district and Success Manager deem to be most beneficial to participants (i.e. in-person, virtual, before/during/after school). These sessions can include: Preparation for a Successful Benchmark Administration, Making Sense of and Acting on Benchmark Results, Leveraging ThinkCERCA Reporting, Calibrated Scoring with your in-house bank of Professionally Scored Student Artifacts.

# Professional Learning: Writing Across the Curriculum

## → **District Leadership Planning and Implementation Support**

ThinkCERCA's team will collaborate with your district team to plan the timeline, audience, and expectations around the implementation and professional learning activities. Also, we will work together to connect the site level leadership plan to the classroom practice planning so principals and their leadership team can support the implementation effectively. Aligning ThinkCERCA's work to the strategic plan and accountability systems increases engagement and student outcomes.

## → **Monthly District Leader Implementation Reviews**

Supporting the success of our school partners is the key objective of our implementation team. We want schools to take full advantage of the resources available and optimize their implementation so that teachers can save time and have greater impact. The leadership check-ins help leaders monitor progress toward fidelity through monthly data reviews. Then, our success team collaborates with the district team to optimize implementation support, putting resources where they are needed. Finally, the district implementation team shares successful strategies from across our community of leaders nationally, build the capacity of the district leadership team to successfully implement new instructional initiatives.

## → **Custom District WAC Professional Learning Package**

Understanding educators will have needs across a spectrum of readiness, background knowledge, and comfort, the ThinkCERCA team will work with school and district leadership to design and provide professional learning at a variety of times and locations, in a variety of modalities and for audiences collaboratively identified. These sessions will include standard ThinkCERCA Professional Learning as well as custom sessions to integrate ThinkCERCA within the broader teaching & learning landscape of the district.

## → **(Added to Calendar as Requested) Disciplinary Literacy Workshops (Social Studies, Science, Math)**

ThinkCERCA's Success Managers from across our team bring expertise in all disciplines. To reinforce literacy skills across disciplines and lever the resources available to the team, we encourage districts to take advantage of over 40 disciplinary literacy workshop offerings designed to support Social Studies, Science, and Math teachers in implementing reading and writing across disciplines.

## → **(Added to Calendar as Scheduled) ThinkCERCA Webinars, Institutes, Forums, and Events**

To ensure ThinkCERCA 's implementation is evolving teacher and leader practice, educators have an opportunity to join literacy leaders from across the country in a variety of virtual and in-person events. A range of events are available from monthly webinars with thought leaders to intensive and fun multi-day professional learning experiences.

# THINKCERCA'S Partners

## Partner

## Offering



ThinkCERCA, in collaboration with the College Board, is supporting AP teachers in providing supplemental curriculum aligned to each unit of the Course Exam Descriptions. We began this work with AP Language and Composition, their largest course, and will continue to roll out additional resources for popular courses.



ThinkCERCA is partnering with Quill to offer additional support for language development through Quill Proofreader, Quill Grammar, and more! For emerging multilingual students and native English speakers alike, Quill and ThinkCERCA are teaming up to make sure students have everything they need to succeed!

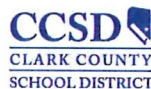


ThinkCERCA and Pear Deck have partnered to provide educators with ready-to-teach CERCA Slides, complete with Pear Deck interactive prompts designed to spark courageous thinking! Each themed collection includes reading and writing experiences at ten levels for readers at all levels of readiness. Each Deck has been curated by ThinkCERCA's expert team and paired with proven instructional strategies to help your students navigate ThinkCERCA lessons and prompt classroom conversations.



ThinkCERCA is an official NWEA Instructional Connections Partner with a strong shared commitment to personalization and instructional improvement. ThinkCERCA offers a tool for both our users and those of NWEA's Measures of Academic Progress (MAP) assessment to discover meaningful lessons for their students on the ThinkCERCA Platform. The resulting tool allows teachers to: navigate the ThinkCERCA library by using search terms and language that mirror those used on NWEA MAP reports; correlate needs and strengths of students as seen on NWEA MAP reports with lessons inside the ThinkCERCA platform; choose the best ThinkCERCA lesson type in the targeted instructional area and level to best meet the needs of students.

### We are Proud to Partner and Support Many of the Largest Districts in the US



This Confidential Data Privacy Agreement (“**DPA**”) is entered into by and between:

THE BOARD OF EDUCATION OF JEFFERSON COUNTY KENTUCKY, a political subdivision of the Commonwealth of Kentucky, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218 (the “**Board**” or “**Jefferson County Public Schools**”) and

ThinkCERCA.com Inc., a Corporation organized under the laws of Delaware with its principal place of business located at 980 N. Michigan, Suite 1400, PMB 228, Chicago, IL 60611 (the “**Provider**”).

**WHEREAS**, the Provider is providing educational or digital services to the Board.

**WHEREAS**, the Provider and the Board recognize the need to protect personally identifiable student information and other regulated data exchanged between them as required by applicable laws and regulations, such as the Family Educational Rights and Privacy Act (“**FERPA**”) at 20 U.S.C. § 1232g (34 CFR Part 99); the Children’s Online Privacy Protection Act (“**COPPA**”) at 15 U.S.C. § 6501-6506 (16 CFR Part 312), applicable state privacy laws and regulations and

**WHEREAS**, the Provider and the Board desire to enter into this DPA for the purpose of establishing their respective obligations and duties in order to comply with applicable laws and regulations.

**NOW THEREFORE**, for good and valuable consideration, the Board and Provider agree as follows:

#### **ARTICLE I: PURPOSE AND SCOPE**

1. **Entire Agreement.** This DPA is the entire agreement between the Parties and supersedes any and all agreements, representations, and negotiations, either oral or written, between the Parties before the effective date of this DPA. This DPA may not be amended or modified except in writing as provided below. This DPA is supplemented by the Board’s Procurement Regulations currently in effect (hereinafter “**Regulations**”) that are incorporated by reference into and made part of this DPA. In the event of a conflict between any provision of this DPA and the Regulations, the Regulations shall prevail. In the event there is conflict between the terms of the DPA and any other writing, including, but not limited to the Service Agreement and Provider Terms of Service or Privacy Policy the terms of this DPA shall control.
2. **Term.** This DPA shall be effective as of June 28, 2023 (the “**Effective Date**”) and shall continue for three (3) years, terminating on June 27, 2026.
3. **Services.** The services to be provided by Provider to the Board pursuant to this DPA are detailed in Exhibit “A” (the “**Services**”). Any compensation to be provided by the Board to Provider is also detailed in Exhibit “A” (the “**Compensation**”). Each party shall be responsible for their portion of costs that may result from data sharing. Examples of potential costs to the Board are costs associated with the compiling of Confidential Data requested under this DPA and costs associated with the electronic delivery of Confidential DATA to Provider.
4. **Purpose of DPA.** The purpose of this DPA is to describe the duties and responsibilities to protect Confidential Data including compliance with all applicable federal, state, and local privacy

laws, rules, and regulations, all as may be amended from time to time. In performing the Services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the Board. Provider shall be under the direct control and supervision of the Board, with respect to its use of Confidential Data.

**5. Confidential Data to Be Provided.** In order to perform the Services described above, the Board shall provide Confidential Data as identified in the Schedule of Data, attached hereto as **Exhibit "B"**

**6. DPA Definitions.** The definition of terms used in this DPA is found in **Exhibit "C"**. In the event of a conflict, definitions used in this DPA shall prevail over terms used in any other writing, including, but not limited to the Service Agreement, Terms of Service, Privacy Policies etc.

## ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

**1. Confidential Data Property of the Board.** All Confidential Data transmitted to the Provider pursuant to the Service Agreement is and will continue to be the property of and under the control of the Board. The Provider further acknowledges and agrees that all copies of such Confidential Data transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are subject to the provisions of this DPA in the same manner as the original Confidential Data. The Parties agree that as between them, all rights, including all intellectual property rights in and to Confidential Data contemplated per the Service Agreement, shall remain the exclusive property of the Board. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the Board as it pertains to the use of Confidential Data, notwithstanding the above.

**2. Parent Access.** To the extent required by law the Board shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Education Records and/or Confidential Data correct erroneous information, and procedures for the transfer of student-generated content to a personal account, consistent with the functionality of services. Provider shall respond in a reasonably timely manner (and no later than forty five (45) days from the date of the request or pursuant to the time frame required under state law for the Board to respond to a parent or student, whichever is sooner) to the Board's request for Confidential Data in a student's records held by the Provider to view or correct as necessary. In the event that a parent of a student or other individual contacts the Provider to review any of the Confidential Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the Board, who will follow the necessary and proper procedures regarding the requested information.

**3. Separate Account.** If Student-Generated Content is stored or maintained by the Provider, Provider shall, at the request of the Board, transfer, or provide a mechanism for the Board to transfer, said Student-Generated Content to a separate account created by the student.

**4. Law Enforcement Requests.** Should law enforcement or other government entities ("Requesting Party(ies)") contact Provider with a request for Confidential Data held by the Provider pursuant to the Services, the Provider shall notify the Board in advance of a compelled disclosure to the Requesting Party, unless lawfully directed by the Requesting Party not to inform the Board of the request.

**5. Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions for the Provider in order for the Provider to provide the Services pursuant to the Service Agreement, whereby the Subprocessors agree to protect Confidential Data in a manner no less stringent than the terms of this DPA.

**6. Research and Program Evaluation.** For any project, involving data collection or research (e.g., program evaluation or monitoring activities), student or staff participation is voluntary. As a federally authorized Institutional Review Board (IRB), the Board complies with the federal definition for research, which includes sharing of Personally Identifiable Information (PII) for the purposes of answering a question or evaluating activities for effectiveness beyond standard educational or operational procedures. Thus, all data collection and research activities must be approved by the Board's IRB and shall not begin before approval is secured from the IRB. If Provider wishes to collect data specifically for program evaluation or research purposes, or if Provider wishes to use identifiable data for program evaluation or research purposes, Provider must apply for and obtain permission from the Board's IRB prior to beginning any research or evaluation related data collection.

### ARTICLE III: DUTIES OF THE BOARD

**1. Provide Data in Compliance with Applicable Laws.** The Board shall provide Confidential Data for the purposes of obtaining the Services in compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time.

**2. Annual Notification of Rights.** If the Board has a policy of disclosing Education Records and/or Confidential Data under FERPA (34 CFR § 99.31(a)(1)), the Board shall include a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest in its annual notification of rights.

**3. Reasonable Precautions.** The Board shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted Confidential Data.

**4. Unauthorized Access Notification.** The Board shall notify Provider promptly of any known unauthorized access. The Board will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

### ARTICLE IV: DUTIES OF PROVIDER

**1. Privacy Compliance.** The Provider shall comply with all applicable federal, state, and local laws, rules, and regulations pertaining to Confidential Data privacy and security, all as may be amended from time to time, including but not limited to FERPA; the Kentucky Family Educational Rights and Privacy Act, KRS 160.700 et seq.; the Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq.; the Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq.; 7 C.F.R. 245.6 et seq.; the Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931 et seq.; and the Kentucky Open Records Act, KRS 61.820 et seq.

**2. Data Custodian.** For the purposes of this DPA and ensuring Provider's compliance with the terms of this DPA and all application of state and federal law, Provider designated Michael Manley as the data custodian ("Data Custodian") of the Confidential Data. The Board will

release all data and information under this DPA to Data Custodian. Data Custodian shall be responsible for transmitting all data requests and maintain a log or other record of all data requested and received pursuant to this DPA, including confirmation of the return or destruction of data as described below. The Board may, upon request, review the records Provider is required to keep under this DPA.

**3. Authorized Use.** The Confidential Data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services outlined in **Exhibit "A"** or stated in the Service Agreement and/or otherwise authorized under the statutes referred to herein this DPA. Provider will not contact the individuals included in the data sets without obtaining advance written authorization from the Board.

**4. Provider Employee Obligation.** Provider shall require all of Provider's employees and agents who have access to Confidential Data to comply with all applicable provisions of this DPA with respect to the Confidential Data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to Confidential Data pursuant to the Service Agreement.

**5. Insurance.** Provider shall maintain, during the term of this Agreement, a cyber-insurance liability policy, in the amount of \$5M. Upon request, Provider shall furnish the certificate of insurance evidencing this coverage. The certificate of insurance shall name the Board of Education of Jefferson County as additional insured in the Description of Operations section of the Certificate of Insurance which shall read:

Board of Education of Jefferson County  
Attn: Insurance/Real Estate Dept.  
3332 Newburg Road  
Louisville, Kentucky 40218

**6. No Disclosure.** Provider acknowledges and agrees that it shall not make any re-disclosure of any Confidential Data or any portion thereof, including without limitation, user content or other nonpublic information and/or personally identifiable information contained in the Confidential Data other than as required by law or court order. If Provider becomes legally compelled to disclose any Confidential Data (whether by judicial or administrative order, applicable law, rule, regulation, or otherwise), then Provider shall use all reasonable efforts to provide the Board with prior notice before disclosure so that the Board may seek a protective order or other appropriate remedy to present the disclosure or to ensure the Board's compliance with the confidentiality requirements of federal or state law. This prohibition against disclosure shall not apply to aggregate summaries of De-Identified information or to Subprocessors performing services on behalf of the Provider pursuant to this DPA. Provider

**7. De-Identified Data:** Provider agrees not to attempt to re-identify De-Identified Confidential Data. De-Identified Data may be used by the Provider for those purposes allowed under FERPA and the following purposes: (1) assisting the Board or other governmental agencies in conducting research and other studies; and (2) research and development of the Provider's educational sites, services, or applications, and to demonstrate the effectiveness of the Services; and (3) for adaptive Learning purpose and for customized student Learning. Provider's use of De-Identified Data shall survive termination of this DPA or any request by the Board to return or destroy Confidential Data. Except for Subprocessors, Provider agrees

not to transfer de-identified Confidential Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to the Board who has provided prior written consent for such transfer. Prior to publishing any document that names the Board explicitly or indirectly, the Provider shall obtain the Board's prior written approval.

**8. Disposition of Data.** Upon written request from the Board, Provider shall dispose of or provide a mechanism for the Board to transfer Confidential Data obtained under the Service Agreement in a usable format, within sixty (60) days of the date of said request and according to a schedule and procedure as the Parties may reasonably agree. Upon termination of this DPA, if no written request from the Board is received to return the data in a usable format, Provider shall dispose of all Confidential Data after providing the Board with reasonable prior notice. The duty to dispose of Confidential Data shall not extend to Confidential Data that had been De-Identified or placed in a separate student account pursuant to section II 3. The JCPS may employ a **"Directive for Disposition of Data"** form, a copy of which is attached hereto as **Exhibit "D"**. If the JCPS and Provider employ **Exhibit "D"**, no further written request or notice is required on the part of either party prior to the disposition of Confidential Data described in **Exhibit "D"**.

**9. Advertising Limitations.** Provider is prohibited from using, disclosing, or selling Confidential Data to (a) inform, influence, or enable Targeted Advertising; or (b) develop a profile of a student, family member/guardian or group, for any purpose other than providing the Service to the Board. This section does not prohibit Provider from using Confidential Data (i) for adaptive Learning or customized student Learning (including generating personalized Learning recommendations); or (ii) to make product recommendations to teachers or JCPS employees; or (iii) to notify account holders about new education product updates, features, or services or from otherwise using Confidential Data as permitted in this DPA and its accompanying exhibits.

**10. Liability.** Provider agrees to be responsible for and assumes all liability for any claims, costs, damages or expenses (including reasonable attorneys' fees) that may arise from or relate to Provider's intentional or negligent release of personally identifiable student, parent or staff data ("Claim" or "Claims"). Provider agrees to hold harmless the Board and pay any costs incurred by the Board in connection with any Claim. The provisions of this Section shall survive the termination or expiration of this DPA.

## ARTICLE V: DATA PROVISIONS

**1. Data Storage.** Where required by applicable law, Confidential Data shall be stored within the United States. Upon request of the Board, Provider will provide a list of the locations where Confidential Data is stored.

**2. Audits.** No more than once a year, or following unauthorized access, upon receipt of a written request from the Board with at least ten (10) business days' notice and upon the execution of an appropriate confidentiality agreement, the Provider will allow the Board to audit the security and privacy measures that are in place to ensure protection of Confidential Data or any portion thereof as it pertains to the delivery of services to the JCPS . The Provider will cooperate reasonably with the Board and any local, state, or federal agency with oversight authority or jurisdiction in connection with any audit or investigation of the Provider and/or



delivery of Services to students and/or the Board, and shall provide reasonable access to the Provider's facilities, staff, agents and the Board's Confidential Data and all records pertaining to the Provider, the Board and delivery of Services to the Board. Failure to reasonably cooperate shall be deemed a material breach of the DPA. JCPS will pay for all expenses and fees incurred from a requested audit from the Board.

**3. Data Security.** The Provider agrees to utilize administrative, physical, and technical safeguards designed to protect Confidential Data from unauthorized access, disclosure, acquisition, destruction, use, or modification. The Provider shall adhere to any applicable law relating to data security. The provider shall implement an adequate Cybersecurity Framework based on one of the standards set forth in Exhibit "E". Additionally, Provider may choose to further detail its security programs and measures that augment or are in addition to the Cybersecurity Framework in Exhibit "E". Provider shall provide, in the Standard Schedule to the DPA, contact information of an employee who the Board may contact if there are any data security concerns or questions. Additionally, The Provider agrees to maintain a minimum security standard including but limited to the following precautions and protections:

- a) Encrypting all data, at rest and in transit;
- b) Maintaining multi-factor authentication on accounts that can access the network or email remotely, including 3rd party accounts;
- c) Securing access to any physical areas/electronic devices where sensitive data are stored;
- d) Establishing and enforcing well-defined data privilege rights which follow the rule of least privilege and restrict users' access to the data necessary for this to perform their job functions;
- e) Ensuring all staff and 3rd parties sign a nondisclosure statement, and maintaining copies of the signed statements;
- f) Installing end-point protection including but not limited to anti-malware and anti-spyware on any device connected to the network that has access to scoped data, when applicable

**4. Data Breach.** In the event of an unauthorized release, disclosure or acquisition of Confidential Data that compromises the security, confidentiality or integrity of the Confidential Data maintained by the Provider the Provider shall provide notification to the Board within seventy-two (72) hours of confirmation of the incident, unless notification within this time limit would disrupt investigation of the incident by law enforcement. In such an event, notification shall be made within a reasonable time after the incident. Provider shall follow the following process:

- (1) The security breach notification described above shall include, at a minimum, the following information to the extent known by the Provider and as it becomes available:
  - i. The name and contact information of the individual reporting a breach subject to this section.
  - ii. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
  - iii. If the information is possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3)

the date range within which the breach occurred. The notification shall also include the date of the notice.

- iv. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided; and
  - i. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
- (2) Provider agrees to adhere to all federal and state requirements with respect to a data breach related to the Confidential Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
- (3) Provider further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of Confidential Data or any portion thereof, including personally identifiable information and agrees to provide the Board, upon request, with a summary of said written incident response plan.
- (4) The Board shall provide notice and facts surrounding the breach to the affected students, parents or guardians, or staff, as applicable.
- (5) In the event of a breach originating from the Board's use of the Service, Provider shall cooperate with the Board to the extent necessary to expeditiously secure Confidential Data.

5. **Kentucky Personal Information Security and Breach Investigation Procedures and Practices Act.** If Provider receives Personal Information as defined by and in accordance with the Kentucky Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq. (the "Act"), Provider shall secure, protect and maintain the confidentiality of the Personal Information by, without limitation, complying with all requirements applicable to

- a. "Personal Information" is defined in accordance with KRS 61.931(6) as an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:
  - i. An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
  - ii. A Social Security number;
  - iii. A taxpayer identification number that incorporates a Social Security number;

- iv. A driver's license number, state identification card number or other individual identification number issued by an agency;
  - v. A passport number or other identification number issued by the United States government; or
  - vi. Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by FERPA.
- b. As provided in KRS 61.931(5), a "non-affiliated third party" means any person or entity that has a contract or agreement with an agency and receives (accesses, collects or maintains) personal information from the agency pursuant to the contract or agreement.
  - c. Provider shall not re-disclose, without the written consent of JCPS, any "personal information," as defined in KRS 61.931, or any other personally identifiable information of a student or other persons, such as employees.
  - d. Provider agrees to cooperate with JCPS in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.
  - e. Provider agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.
6. **Cloud Computing Service Providers.** If Provider is a cloud computing service provider (as defined in KRS 365.734(1)(b) as "any person other than an educational institution that operates a cloud computing service"), Provider agrees that:

Provider shall not process student data for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the provider receives express permission from the student's parent. Provider shall work with the student's school and district to determine the best method of collecting parental permission. KRS 365.734 defines "process" and "student data."

Pursuant to KRS 365.734(2), Provider shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purposes.

Pursuant to KRS 365.734(2), Provider shall not sell, disclose, or otherwise process student data for any commercial purpose.

Pursuant to KRS 365.734(3), Provider shall certify in writing to the agency that it will comply with KRS 365.734(2).

## ARTICLE VI: MISCELLANEOUS

7. **Termination.** Either party may terminate this DPA if the other party breaches any terms of this DPA, provided however, the breaching party shall have thirty (30) days to cure such breach and this DPA shall remain in force. The Board may terminate this DPA in whole or in part at

any time by giving written notice to Provider of such termination and specifying the effective date thereof, at Least thirty (30) days before the specified effective date. In accordance with **Attachment A**, the Board shall compensate Provider for Services satisfactorily performed through the effective date of termination.

**8. Effect of Termination Survival.** If the Service Agreement is terminated, the Provider shall destroy all of JCPS's Confidential Data pursuant to Article IV, section 6.

**9. Priority of Agreements.** This DPA shall govern the treatment of Confidential Data in order to comply with the privacy protections, including those found in FERPA and all applicable privacy statutes identified in this DPA. In the event there is conflict between the terms of the DPA and the Service Agreement, Terms of Service, Privacy Policies, or with any other bid/RFP, license agreement, or writing, the terms of this DPA shall apply and take precedence.

**10. Modification.** No waiver, alteration or modification of the provisions of this Agreement shall be binding unless in writing and mutually agreed upon. Any modifications or additions to this Agreement must be negotiated and approved by both parties.

**11. Disputes.** Any differences or disagreements arising between the Parties concerning the rights or liabilities under this DPA, or any modifying instrument entered into pursuant to this DPA, shall be resolved through the procedures set out in the Regulations.

**12. Notices.** All notices or other communication required or permitted to be given hereunder may be given via e-mail transmission, or certified mail, sent to the designated representatives below.

The designated representative for the Board for this DPA is:

Name: Dr. Terra Greenwell

Title: Chief Academic Officer

Address: 3332 Newburg Road, Louisville, KY 40218

Phone: (502) 485-3011

Email: terra.greenwell@jefferson.kyschools.us

The designated representative for the Provider for this DPA is:

Name: Michael Manley Title: Chief Technology Officer

Address: 980 N. Michigan, Avenue, Suite 1400, PMB 228, Chicago, IL 60611

Phone: (224) 412-3722 Email: Michael.manley@thinkcerca.com

- 13. Amendment and Waiver.** This DPA may be amended and the observance of any provision of this DPA 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.
- 14. Severability.** Any provision of this DPA that 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 DPA, 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 DPA or affecting the validity or enforceability of such provision in any other jurisdiction.
- 15. Governing Law; Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF KENTUCKY, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS FOR JEFFERSON COUNTY KENTUCKY FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS DPA OR THE TRANSACTIONS CONTEMPLATED HEREBY.
- 16. Successors Bound:** This DPA is and shall be binding upon the respective successors in interest to Provider in the event of a merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of such business. In the event that the Provider sells, merges, or otherwise disposes of its business to a successor during the term of this DPA, the Provider shall provide written notice to the Board no later than sixty (60) days after the closing date of sale, merger, or disposal. Such notice shall include a written, signed assurance that the successor will assume the obligations of the DPA and any obligations with respect to Confidential Data within the Service Agreement. The Board has the authority to terminate the DPA if it disapproves of the successor to whom the Provider is selling, merging, or otherwise disposing of its business.
- 17. Authority.** Each party represents that it is authorized to bind to the terms of this DPA, including confidentiality and destruction of Confidential Data and any portion thereof contained therein, all related or associated institutions, individuals, employees or contractors who may have access to the Confidential Data and/or any portion thereof.
- 18. Relationship of Parties.** The Board is not an employee, agent, partner or co-venturer of or with Services Provider. Neither Services Provider nor the Board shall represent or imply to any party that it has the power or authority to enter into a contract or commitment in the name of or on behalf of the other, or to otherwise bind the other.
- 19. Equal Opportunity.** During the performance of this DPA, Provider agrees that Provider shall not discriminate against any employee, applicant or subcontractor because of race, color,

national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, disability, or limitations related to pregnancy, childbirth, or related medical conditions. If the Compensation is paid from federal funds, this DPA is subject to Executive Order 11246 of September 24, 1965 and in such event the Equal Opportunity Clause set forth in 41 Code of Federal Regulations 60-1.4 is hereby incorporated by reference into this DPA as if set forth in full herein.

**20. Prohibition on Conflicts of Interest.** It shall be a breach of this DPA for Provider to commit any act which is a violation of Article XI of the Regulations entitled "Ethics and Standards of Conduct," or to assist or participate in or knowingly benefit from any act by any employee of the Board which is a violation of such provisions.

**21.** Contractor shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to Provider for the duration of this DPA and shall reveal any final determination of a violation by the Provider of the preceding KRS chapters.

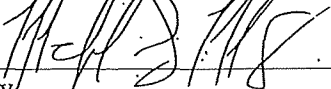
**22. Access to School Grounds.** No employee or agent of Provider shall access the Board's school grounds on a regularly scheduled or continuing basis for purposes of providing services to students under this DPA.

IN WITNESS WHEREOF, The Board and Provider execute this DPA as of the Effective Date above.

**BOARD OF EDUCATION OF JEFFERSON COUNTY KENTUCKY**

By: \_\_\_\_\_  
Printed Name: Dr. Marty Pollio  
Title/Position: Superintendent

Date: \_\_\_\_\_

**ThinkCERCA.com Inc.**  
By:  \_\_\_\_\_  
Printed Name: Michael Manley  
Title/Position: CTO

Date: 2023-06-12

**EXHIBIT "A"**

**DESCRIPTION OF SERVICES**

Provider shall provide software licenses and support for the following products at prices equal or below Provider's standard pricing rates for the products:

Student Licensing for Writing Across the Curriculum, which includes all English Language Arts, Social Studies, Science, and Math Resources for students in grades 3-12. In-Person & Virtual Professional Development with Dedicated District Support.

Item	Description	Unit Price	Quantity	Total Price
Renewal Licenses	Writing Across the Curriculum, Grades 3-12, Student Licenses	\$15.00	72,923	\$1,093,845.00
Renewal Professional Development	In-Person & Virtual Professional Development with Dedicated District Support	\$125,000	1	\$125,000.00
<b>Renewal Total</b> *Volume discount of 32% has been applied to licenses for JCPS				<b>\$1,218,845.00</b>

**COMPENSATION**

Funds for purchase shall come from account code CM2053-0322-473GL. Total payments under this DPA shall not exceed \$1,218,845 FY24 with costs FY25 and FY26 to be determined later.

**EXHIBIT "B"**

**SCHEDULE OF DATA**

<b>Category of Data</b>	<b>Elements</b>	<b>Check if Used by Your System</b>
Application Technology Meta Data	IP Addresses of users, Use of cookies, etc.	<input checked="" type="checkbox"/>
	Other application technology meta data- Please specify:	<input type="checkbox"/>
Application Use Statistics	Meta data on user interaction with application	<input type="checkbox"/>
Assessment	Standardized test scores	<input type="checkbox"/>
	Observation data	<input type="checkbox"/>
	Other assessment data-Please specify:	<input type="checkbox"/>
Attendance	Student school (daily) attendance data	<input type="checkbox"/>

5.23.23 - THINKERCA



	Student class attendance data	<input type="checkbox"/>
Communications	Online communications captured (emails, blog entries)	<input type="checkbox"/>
Conduct	Conduct or behavioral data	<input type="checkbox"/>
Demographics	Date of Birth	<input type="checkbox"/>
	Place of Birth	<input type="checkbox"/>
	Gender	<input type="checkbox"/>
	Ethnicity or race	<input type="checkbox"/>
	Language information (native, or primary language spoken by student)	<input type="checkbox"/>
	Student disability information	<input type="checkbox"/>

Category of Data	Elements	Check if Used by Your System
	Other demographic information-Please specify:	<input type="checkbox"/>
Enrollment	Student school enrollment	<input checked="" type="checkbox"/>
	Student grade level	<input checked="" type="checkbox"/>
	Homeroom	<input checked="" type="checkbox"/>
	Guidance counselor	<input type="checkbox"/>
	Specific curriculum programs	<input type="checkbox"/>
	Year of graduation	<input type="checkbox"/>
	Other enrollment information-Please specify:	<input type="checkbox"/>

Parent/Guardian Contact Information	Address	<input type="checkbox"/>
	Email	<input type="checkbox"/>
	Phone	<input type="checkbox"/>
Parent/Guardian ID	Parent ID number (created to link parents to students)	<input type="checkbox"/>
Parent/Guardian Name	First and/or Last	<input type="checkbox"/>
Schedule	Student scheduled courses	<input checked="" type="checkbox"/>
	Teacher names	<input checked="" type="checkbox"/>
Special Indicator	English language Learner information	<input type="checkbox"/>
	Low income status	<input type="checkbox"/>
	Medical alerts/ health data	<input type="checkbox"/>

Category of Data	Elements	Check if Used by Your System
	Specialized education services (IEP or 504)	<input type="checkbox"/>
	Living situations (homeless/foster care)	<input type="checkbox"/>
	Other indicator information-Please specify:	<input type="checkbox"/>
Staff Data	First and Last Name	<input checked="" type="checkbox"/>
	Email Address	<input checked="" type="checkbox"/>
	Staff ID number	<input checked="" type="checkbox"/>
	Other information – Please specify	<input type="checkbox"/>
Student Contact Information	Address	<input type="checkbox"/>
	Email	<input checked="" type="checkbox"/>
	Phone	<input type="checkbox"/>

Student Identifiers	Local (School district) ID number	<input checked="" type="checkbox"/>
	State ID number	<input type="checkbox"/>
	Provider/App assigned student ID number	<input checked="" type="checkbox"/>
	Student app username	<input checked="" type="checkbox"/>
	Student app passwords	<input checked="" type="checkbox"/>
Student Name	First and/or Last	<input checked="" type="checkbox"/>
Student In App Performance	Program/application performance (typing program- student types 60 wpm, reading program- student reads below grade level)	<input type="checkbox"/>
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	<input type="checkbox"/>
Student Survey Responses	Student responses to surveys or questionnaires	<input type="checkbox"/>
Student work	Student generated content; writing, pictures, etc.	<input checked="" type="checkbox"/>

Category of Data	Elements	Check if Used by Your System
	Other student work data -Please specify:	<input type="checkbox"/>
Transcript	Student course grades	<input type="checkbox"/>
	Student course data	<input type="checkbox"/>
	Student course grades/ performance scores	<input type="checkbox"/>
	Other transcript data - Please specify:	<input type="checkbox"/>
Transportation	Student bus assignment	<input type="checkbox"/>
	Student pick up and/or drop off location	<input type="checkbox"/>
	Student bus card ID number	<input type="checkbox"/>

	Other transportation data – Please specify:	<input type="checkbox"/>
Other	Please list each additional data element used, stored, or collected by your application:	<input type="checkbox"/>
None	No Confidential Data collected at this time. Provider will immediately notify JCPS if this designation is no longer applicable.	<input type="checkbox"/>

**EXHIBIT "C"**  
**DEFINITIONS**

**Compensation:** Amounts to be paid to the Provider in exchange for software licenses and support. The maximum amount of Compensation that may be paid under this DPA is set forth in Attachment A. The Board is not obligated to pay the maximum Compensation amount solely by its inclusion in this DPA. Compensation owed is determined by the purchase orders submitted to Provider. The cost for any single license or support provided under this DPA shall not exceed Provider's standard pricing for that product.

**De-Identified Data and De-Identification:** Records and information are considered to be De-Identified when all personally identifiable information has been removed or obscured, such that the remaining information does not reasonably identify a specific individual, including, but not limited to, any information that, alone or in combination is linkable to a specific student and provided that the educational agency, or other party, has made a reasonable determination that a student's identity is not personally identifiable, taking into account reasonable available information.

**Educational Records:** Educational Records are records, files, documents, and other materials directly related to a student and maintained by the school or local education agency, or by a person acting for such school or local education agency, including but not limited to, records encompassing all the material kept in the student's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement, and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

**Metadata:** means information that provides meaning and context to other data being collected; including, but not limited to: date and time records and purpose of creation Metadata that have been stripped of all direct and indirect identifiers are not considered Personally Identifiable Information.

**Operator:** means the operator of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for K-12 school purposes. Any entity that operates an internet website, online service, online application, or mobile application that has entered into a signed, written agreement with the Board to provide a service to the Board shall be considered an "operator" for the purposes of this section.

**Provider:** For purposes of the DPA, the term "Provider" means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Confidential Data. Within the DPA the term "Provider" includes the term "Third Party" and the term "Operator" as used in applicable state statutes.

**Regulations:** The Board Procurement Regulations, available on the JCPS website, as may be amended from time to time.

**Student Generated Content:** The term "Student-Generated Content" means materials or content created by a student in the services including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, videos, and account information that enables ongoing ownership of student content.

**School Official:** For the purposes of this DPA and pursuant to 34 CFR § 99.31(b), a School Official is a contractor that: (1) Performs an institutional service or function for which the agency or institution would otherwise use employees; (2) Is under the direct control of the agency or institution with respect to the use and maintenance of Confidential Data including Education Records; and (3) Is subject to 34 CFR §



99.33(a) governing the use and re-disclosure of Personally Identifiable Information from Education Records.

**Service Agreement:** Refers to the Contract, Purchase Order or Terms of Service or Terms of Use.

**Confidential Data:** Confidential Data includes any data, whether gathered by Provider or provided by the Board or its users, students, or students' parents/guardians, that is descriptive of the student including, but not limited to, information in the student's educational record or email, first and last name, birthdate, home or other physical address, telephone number, email address, or other information allowing physical or online contact, discipline records, videos, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security numbers, biometric information, disabilities, socioeconomic information, individual purchasing behavior or preferences, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, geolocation information, parents' names, or any other information or identification number that would provide information about a specific student. Confidential Data includes Meta Data. Confidential Data further includes "Personally Identifiable Information (PII)," as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law. Confidential Data shall constitute Education Records for the purposes of this DPA, and for the purposes of federal, state, and local laws and regulations. Confidential Data as specified in **Exhibit "B"** is confirmed to be collected or processed by the Provider pursuant to the Services. Confidential Data shall not constitute that information that has been anonymized or De-Identified, or anonymous usage data regarding a student's use of Provider's services.

**Subprocessor:** For the purposes of this DPA, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than Board or Provider, who Provider uses for data collection, analytics, storage, or other service to operate and/or improve its service, and who has access to Confidential Data.

**Targeted Advertising:** means presenting an advertisement to a student where the selection of the advertisement is based on Confidential Data or inferred over time from the usage of the operator's Internet web site, online service or mobile application by such student or the retention of such student's online activities or requests over time for the purpose of targeting subsequent advertisements. "Targeted Advertising" does not include any advertising to a student on an Internet web site based on the content of the web page or in response to a student's response or request for information or feedback.

**Third Party:** The term "Third Party" means a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Education Records and/or Confidential Data, as that term is used in some state statutes. However, for the purpose of this DPA, the term "Third Party" when used to indicate the provider of digital educational software or services is replaced by the term "Provider."

**EXHIBIT "D"**

**DIRECTIVE FOR DISPOSITION OF DATA**

The Board of Education of Jefferson County Kentucky directs Provider to dispose of data obtained by Provider pursuant to the terms of the Service Agreement between The Board and Provider. The terms of the Disposition are set forth below:

**1. Extent of Disposition**

\_\_\_\_\_Disposition is partial. The categories of data to be disposed of are set forth below or are found in an attachment to this Directive:

**[Insert categories of data here]**

\_\_\_\_\_Disposition is Complete. Disposition extends to all categories of data.

**2. Nature of Disposition**

\_\_\_\_\_Disposition shall be by destruction or deletion of data.

\_\_\_\_\_Disposition shall be by a transfer of data. The data shall be transferred to the following site as follows:

**[Insert or attach special instructions]**

**3. Schedule of Disposition**

Data shall be disposed of by the following date:

\_\_\_\_\_As soon as commercially practicable.

\_\_\_\_\_By **[Insert Date]**

**Signature**

\_\_\_\_\_

Authorized Representative of the Board

\_\_\_\_\_

Date

\_\_\_\_\_

**Verification of Disposition of Data**

Authorized Representative of Provider

Date

**EXHIBIT “E”**

**DATA SECURITY REQUIREMENTS**

**Adequate Cybersecurity Frameworks**

Provider will utilize one of the following known and credible cybersecurity frameworks which can protect digital learning ecosystems.

Cybersecurity Frameworks

	<b>MAINTAINING ORGANIZATION/GROUP</b>	<b>FRAMEWORK(S)</b>
	American Institute of CPAs	SOC2
	International Standards Organization (ISO)	Information technology — Security techniques — Information security management systems (ISO 27000 series)
x	The Board of Education of Jefferson County	Board provided standardized questionnaire



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
01/29/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Ashford General Insurance Agency 420 W Huron Street Chicago IL 60654	CONTACT NAME: Tami Semler	FAX (A/C, No): (312) 923-9935	
	PHONE (A/C, No, Ext): (312) 923-9901	E-MAIL ADDRESS: tami@ashfordins.com	
INSURED ThinkCERCA.com, INC. 980 N Michigan Ave Suite 1400 PNB 228 Chicago IL 60611	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Travelers Casualty Company of America		
	INSURER B: Travelers Property Casualty Company of America		
	INSURER C: The Travelers Indemnity Company of America		
	INSURER D: Underwriters at Lloyds		
	INSURER E:		
INSURER F:			

COVERAGES CERTIFICATE NUMBER: CL2312901237 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y	680-9C009845-23-42	02/20/2023	02/20/2024	EACH OCCURRENCE \$ 1,000,000.00
						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000.00
						MED EXP (Any one person) \$ 5,000.00
						PERSONAL & ADV INJURY \$ 1,000,000.00
						GENERAL AGGREGATE \$ 2,000,000.00
						PRODUCTS - COMP/OP AGG \$ 2,000,000.00
						\$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	N/A	680-9C009845-23-42	02/20/2023	02/20/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000.00
						BODILY INJURY (Per person) \$
						BODILY INJURY (Per accident) \$
						PROPERTY DAMAGE (Per accident) \$
						\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE	N/A	CUP-4E669512-23-42	02/20/2023	02/20/2024	EACH OCCURRENCE \$ 2,000,000.00
						AGGREGATE \$ 2,000,000.00
						\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	UB-3K420691-23-42-G	02/20/2023	02/20/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
						E.L. EACH ACCIDENT \$ 1,000,000.00
						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000.00
						E.L. DISEASE - POLICY LIMIT \$ 1,000,000.00
D	Cyber Errors & Omissions Liability		ESL0539517071	08/21/2022	08/21/2023	Occurrence \$5,000,000.00 Aggregate \$5,000,000.00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Board of Education of Jefferson County is named as Additional Insured.

## CERTIFICATE HOLDER

## CANCELLATION

Board of Education of Jefferson County Attn: Insurance/Real Estate 3332 Newburg Road  Louisville KY 40218	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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**Recommendation for Approval of Amendment to Data Privacy Agreement with ThinkCERCA.com, Inc**

**Recommended Motion**

**Superintendent Martin Pollio recommends the Board of Education approve the attached Data Privacy Agreement with ThinkCERCA.com, Inc and authorize the superintendent to sign the same.**

**Rationale**

**ThinkCERCA Writing Across the Curriculum + Intervene & Accelerate provides student access to all supplemental resources for ELA, Social Studies, Science, and Math in the ThinkCERCA platform, as well as access for all teachers and administrators who serve those students. This work supports Vision 2020 strategy 1.1.3- Provide Equitable Access.**

**Submitted by: Dr. Terra Greenwell**

**Attachment**