

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

Learning A-Z, LLC], a limited liability company organized under the laws of Delaware with its principal place of business located at 1840 East River Road, Ste. 320 Tucson, AZ 85718 [Street, City, State] (the “**Provider**”). This DPA supplements Contractor’s License Quote, and each existing and subsequent agreement for Contractor’s subscriptions and/or services, which are incorporated herein by reference.

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. To the extent that any of the Board’s Procurement Regulations reflect applicable law, 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 to the extent that any of the Board’s Procurement Regulations reflect applicable law,. 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 March 19, 2025 (the “**Effective Date**”) and shall continue for three (3) years, terminating on March 19, 2028.
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 Ugochukwu Eleoba 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 will not Sell Confidential Data to any third party.
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.

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.
- (1) 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.
- (2) The Board shall provide notice and facts surrounding the breach to the affected students, parents or guardians, or staff, as applicable.
- (3) 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 "non-affiliated third parties" set forth in the Act, including but not limited to the following:

- 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:

Except as otherwise allowed in this agreement, 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

1. **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. Unless otherwise expressly

required under applicable law or in the event of an uncured material default by Provider, invoiced fees are not subject to offset, credit or reimbursement for termination prior to the end of the then-current license subscription period.

2. **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.
3. **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.
4. **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.
5. **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.
6. **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: Eric Satterly,

Title: Chief Information Officer

Address: C.B. Young Services Center Building #7, Louisville, KY 40209

Phone: (502) 485-3804 Email: eric.satterly@jefferson.kyschools.us

The designated representative for the Provider for this DPA is:

Name: Julia Given

Title: VP Finance

Address: 110 Avon Street, Suite #300, Charlottesville, VA. 22902

Phone: 866-882-4141 Email: ELLegal@explorellearning.com

7. **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.

8. **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.
9. **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.
10. **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.
11. **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.
12. **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.
13. **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.

STANDARD JEFFERSON COUNTY PUBLIC SCHOOLS DATA PRIVACY AGREEMENT

Version Date: 5.11.22

- 14. 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.
- 15.** 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.
- 16. 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: _____

Date: _____

Printed Name: Marty Pollio

Title/Position: Superintendent

DocuSigned by:
Explore Learning LLC

By: Julia Given

Date: 3/5/2025

Printed Name: Julia Given

Title/Position: VP Finance

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:

Educational SaaS-based subscriptions, provisioned in a multi-tenant, shared database architecture, with ancillary training, texts and other materials that are further detailed in the applicable Provider's license quote, and each existing and subsequent agreement for Provider's subscriptions and/or services, which are incorporated herein by reference.

This DPA supplements Contractor's License Terms and each existing and subsequent agreement and quote for Contractor's subscriptions and/or services, which are incorporated herein by reference.

Use of the Gizmos product, Gizmos are interactive math and science simulations for grades 3-12. Over 400 Gizmos aligned to the latest standards help educators bring powerful new learning experiences to the classroom. Gizmos use an inquire-based approach to learning that has been validated by extensive research as a highly effective way to build conceptual understanding.

COMPENSATION


Purchase orders shall be entered by each participating school. Funds for purchase shall come from individual school budgets. Total payments under this DPA shall not exceed standard vendor pricing per fiscal year, running from July 1-June 30.

EXHIBIT "B"

SCHEDULE OF DATA

Category of Data	Elements	Check if Used by Your System
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 checked="" type="checkbox"/>
	Other assessment data-Please specify:	<input type="checkbox"/>
Attendance	Student school (daily) attendance data	<input type="checkbox"/>

	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 checked="" type="checkbox"/>
	Ethnicity or race	<input checked="" 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 checked="" type="checkbox"/>
Enrollment	Student school enrollment	<input checked="" type="checkbox"/>
	Student grade level	<input checked="" type="checkbox"/>
	Homeroom	<input 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 checked="" type="checkbox"/>
Schedule	Student scheduled courses	<input type="checkbox"/>
	Teacher names	<input type="checkbox"/>
Special Indicator	English language Learner information	<input checked="" type="checkbox"/>
	Low income status	<input checked="" 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 checked="" 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 type="checkbox"/>
	Email Address	<input type="checkbox"/>
	Staff ID number	<input 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 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 checked="" 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

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



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
01/09/2025

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 Aon Risk Services Southwest, Inc. Dallas TX Office 5005 Lyndon B Johnson Freeway Suite 1500 Dallas TX 75244 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105 E-MAIL ADDRESS:														
INSURED ExploreLearning, LLC. 17855 Dallas Pkwy Ste 400 Dallas TX 75287-6857 USA	<table><tr><td>INSURER(S) AFFORDING COVERAGE</td><td>NAIC #</td></tr><tr><td>INSURER A: Berkley National Insurance Company</td><td>38911</td></tr><tr><td>INSURER B: Endurance American Insurance Company</td><td>10641</td></tr><tr><td>INSURER C:</td><td></td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Berkley National Insurance Company	38911	INSURER B: Endurance American Insurance Company	10641	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES**CERTIFICATE NUMBER:** 570110443064**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,

Limits shown are as requested

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 <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y		TCP701596514	04/15/2024	04/15/2025	<table><tr><td>EACH OCCURRENCE</td><td>\$1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$1,000,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$15,000</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$2,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$2,000,000</td></tr></table>	EACH OCCURRENCE	\$1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000	MED EXP (Any one person)	\$15,000	PERSONAL & ADV INJURY	\$1,000,000	GENERAL AGGREGATE	\$2,000,000	PRODUCTS - COMP/OP AGG	\$2,000,000
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GENERAL AGGREGATE	\$2,000,000																		
PRODUCTS - COMP/OP AGG	\$2,000,000																		
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			TCP 7015965-14	04/15/2024	04/15/2025	<table><tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$1,000,000</td></tr><tr><td>BODILY INJURY (Per person)</td><td></td></tr><tr><td>BODILY INJURY (Per accident)</td><td></td></tr><tr><td>PROPERTY DAMAGE (Per accident)</td><td></td></tr></table>	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000	BODILY INJURY (Per person)		BODILY INJURY (Per accident)		PROPERTY DAMAGE (Per accident)					
COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000																		
BODILY INJURY (Per person)																			
BODILY INJURY (Per accident)																			
PROPERTY DAMAGE (Per accident)																			
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION						<table><tr><td>EACH OCCURRENCE</td><td></td></tr><tr><td>AGGREGATE</td><td></td></tr></table>	EACH OCCURRENCE		AGGREGATE									
EACH OCCURRENCE																			
AGGREGATE																			
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	TWC701596615	04/15/2024	04/15/2025	<table><tr><td><input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER</td><td></td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$1,000,000</td></tr><tr><td>E.L. DISEASE-EA EMPLOYEE</td><td>\$1,000,000</td></tr><tr><td>E.L. DISEASE-POLICY LIMIT</td><td>\$1,000,000</td></tr></table>	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER		E.L. EACH ACCIDENT	\$1,000,000	E.L. DISEASE-EA EMPLOYEE	\$1,000,000	E.L. DISEASE-POLICY LIMIT	\$1,000,000				
<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER																			
E.L. EACH ACCIDENT	\$1,000,000																		
E.L. DISEASE-EA EMPLOYEE	\$1,000,000																		
E.L. DISEASE-POLICY LIMIT	\$1,000,000																		
B	Cyber Liability			NRO30057891400 Cyber/E&O - Claims Made SIR applies per policy terms & conditions	04/15/2024	04/15/2025	<table><tr><td>Aggregate</td><td>\$5,000,000</td></tr></table>	Aggregate	\$5,000,000										
Aggregate	\$5,000,000																		

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

Jefferson County Board of Education is included as Additional Insured in accordance with the policy provisions of the General Liability policy.

CERTIFICATE HOLDER**CANCELLATION**

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

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

Aon Risk Services Southwest, Inc

Holder Identifier :

Certificate No : 570110443064



ExploreLearning is committed to protecting your online privacy. Gizmos, Reflex, Frax and Science4Us are [iKeepSafe certified](#) COPPA, FERPA & CSPC compliant and [ISO 27001:2013 certified](#).

Privacy Policy

This site provides you with access to ExploreLearning's Data Management System. This system is an integral component of ExploreLearning's curriculum products and provides valuable reporting, instructional recommendations, and other resources used by teachers and other instructional leaders in conjunction with ExploreLearning's curriculum with the goal of improving student performance.

This statement describes the privacy and security practices ExploreLearning employs for this site. We have adopted these practices to protect you, the students, and the school district, and to enable each of us to comply with applicable legal requirements. Use of this site requires district acceptance of the practices outlined in this statement.

Two types of personally identifiable information are used on this site: your personal data and student data.

Your Personal Data

Collection

ExploreLearning collects information from you as you use this site. For example, you must enter certain personally identifiable information, including your name, e-mail address, and phone number. We use this information to verify your identity and prevent unauthorized access to your account and to contact you in connection with your use of this site.

In addition to the information you provide, ExploreLearning collects information about your use of this site through tracking, cookies, and log files, as described in our general [Terms of Use](#) statement.

Protection

Because you enter your personal data, you control its accuracy. If you discover that your personal data is inaccurate or if it changes or if you want to retain possession of it, you may make corrections by notifying us at support@ExploreLearning.com or 866-882-4141. We will not share your personal data collected through this site with third persons without your consent. However, your personal data will be available to authorized users from your school district who have permission from the school district to access it. We will not use your personal data collected through this site for any purpose other than providing you with access to this site and the associated services. We will use the same security to protect your personal data that we use to protect student data collected through this site.

Student Data

As you use this site, you will enter student data or interact with student data that has already been entered. Federal law (the Family Educational Rights and Privacy Act, "FERPA") allows a school district to release student records to an organization that is "conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests... [or] improving instruction."

However, FERPA requires limitations on disclosure of those records and implementation of appropriate security measures to protect those records. To help your school district comply with FERPA, ExploreLearning has adopted certain practices, and requires that educators using this site fulfill certain responsibilities to safeguard student data. Additionally, ExploreLearning operates in compliance with the Children's Online Privacy Protection Act ("COPPA") and obtains consent when necessary to collect information from children under 13 years of age. The following statement explains our practices and your responsibilities regarding the student data you enter on this site.

Student Data Security and Confidentiality Statement

Purposes of Data Entry

You control what student data is entered on this site and you retain ownership of the student data at all times. Student data entered on this site should be limited to information that is relevant to the legitimate educational purpose of improving student performance. We will not ask you to enter, and you are instructed not to enter, data about students that is not relevant to this legitimate educational purpose.

Therefore, only a minimum amount of personally identifiable student data required for the setup of the system is requested. We require student first name, student last name, and student identification number. Additional data, not specific to the student, is also required to complete system setup, including the teacher first and last name, class name, grade level, and school name. Student demographic data, for the purposes of optional disaggregated reporting, is requested separately from the initial setup data and is obtained only with written permission from your district.

Use, Disclosure, and Storage

We will use the student data to provide the services to your school district. We will not keep the student data after you or the school district instructs us to delete it. You may not



disclose or otherwise use the student data entered on this site for any unauthorized purposes. We will only disclose student data to authorized employees or representatives of the school district, and will not knowingly disclose the student data to any third person without express written authorization. When, at the request of the district, we acquire assessment or other information, including personally identifiable student data, from a third party source we treat that information with the same confidentiality and security safeguards as though it were provided directly by the district. Additional agreements may be required by the third party to authorize transmission of data to ExploreLearning.

Your district may from time to time request that ExploreLearning provide student data to third parties of its choosing. We will do so with written authorization, which acknowledges that ExploreLearning is providing that data as your district's agent and that once the data is received by the third party, ExploreLearning no longer has any control over the use or disposition of the data.

We may also use aggregated data in our research, product development, and marketing. That aggregated, non-personally identifiable data (e.g., summary or statistical data) may be shared with third parties. However, we do not use personally identifiable student data to market any products or services directly to students or their parents.

In the event that ExploreLearning wishes, from time to time, to release aggregated data that identifies your school or school district by name, ExploreLearning will enter into a separate agreement with you to authorize release and publication.

ExploreLearning does not utilize third parties to provide products and does not share your student data with any third parties.

We may sell, transfer or otherwise share some or all of our assets, including your Personal Information, in connection with a merger, acquisition, reorganization or sale of assets or in the event of bankruptcy. Your consent to this Privacy Policy followed by your submission of Personal Information represents your explicit agreement to that transfer.

Data Quality

You are responsible for keeping the student data that you enter accurate, complete and up-to-date. If you recognize that student data is inaccurate, incomplete, or out-of-date, you are responsible for correcting it. If you experience problems making corrections to student data, please notify us at support@ExploreLearning.com and we will assist you with making corrections.

Security Safeguards

We are committed to protecting student data against unauthorized access, destruction, use, modification or disclosure. Protecting student data requires efforts from us and from you. We will implement reasonable and appropriate safeguards when collecting student data from you and when storing that student data in our database and you will observe our security safeguards and exercise reasonable caution when using this site.

Specific institutional and technological security safeguards include:

1. Only ExploreLearning employees who are authorized to handle student data are able to access the Data Management System.
2. Only school district employees and representatives that the district authorizes as school officials are permitted to access the system. It has a hierarchical permissions system. This means:
 1. A teacher will only be able to see data for his/her class.
 2. A Principal, Coach, or other authorized School User will be able to view all data at a given school.
 3. An authorized district-level employee, such as an Instructional Coordinator or Superintendent, will be able to see all data across the district.
3. Each authorized school official is given a Userid and Password valid only for the duration of the academic year, including a summer program if applicable. You must safeguard your Userid and Password, and not permit any unauthorized access to student data entered or kept in ExploreLearning's system.
4. Upon written request by the district, ExploreLearning will destroy any student data for districts who no longer participate in an ExploreLearning program. ExploreLearning will provide written verification that the data has been destroyed as requested.
5. If a district has not used any ExploreLearning product for a period of two years, ExploreLearning will provide written notice that the student data pertaining to their district will be destroyed, unless the district requests the records be kept. Upon destruction, ExploreLearning will provide written verification that the data has been destroyed.
6. ExploreLearning uses industry standard server and network hardware and software to ensure that data is protected from unauthorized access or disclosure.

Although we make concerted good faith efforts to maintain the security of personal information, and we work hard to ensure the integrity and security of our systems, no practices are 100% immune, and we can't guarantee the security of information. Outages, attacks, human error, system failure, unauthorized use or other factors may compromise the security of user information at any time. If we learn of a security breach or other unauthorized disclosure of your PII, we will attempt to notify you so that you can take appropriate protective steps by posting a notice on our homepage (<https://gizmos.explorelearning.com>) or elsewhere in our Service and we will send email



to you at the email address you have provided to us. Additionally, we will notify the primary administrative contact at your school or district by email and telephone and assist with their efforts to ensure your notification.

Any such notice will include:

- The date of the breach.
- The type of information that was subject to breach.
- General description of what occurred.
- Steps we are taking to address the breach.
- The contact person with our Company who you can contact regarding the breach.

If you are a parent, legal guardian or eligible student and an unauthorized disclosure of your student's PII records occurs, we will notify you by email at the email address we have on record for you or through notice to your school or district's primary administrative contact in the event that we do not have an email address on record for you..

When you use this site, you consent to our privacy practices and agree to accept the responsibilities outlined in this statement.

Contact

If you have any questions, concerns or inquiries about our Privacy Policy, or our use of your PII, or our privacy practices, please contact us at support@ExploreLearning.com or 866-882-4141, or mail to General Counsel 17855 Dallas Parkway, Suite 400 Dallas, TX 75287. You may also contact COPPAPrivacy@ikeepSAFE.org.

Last Updated: February 26th, 2020

Terms of Use

By creating an account or subscribing to ExploreLearning.com, you agree to the terms and conditions of use set forth below.

This Agreement is a legal document that governs the terms and conditions of your subscription to ExploreLearning.com. Please read this Agreement carefully. By activating your account, you acknowledge your agreement with these terms and conditions, as such terms and conditions may be amended from time to time. You are also agreeing to accept a non-exclusive, non-assignable right and license to use ExploreLearning. ExploreLearning reserves the right to change these terms and conditions at any time.

ExploreLearning are offered and sold on a subscription basis; however certain areas are available to visitors without cost on a trial or demonstration basis.

Registering and Using ExploreLearning

As part of the registration process, each User will select a password and user name ("User Name"). You agree to provide us with accurate, complete, and updated Account information. Failure to do so will constitute a breach of this Agreement, which may result in immediate termination of your rights to use the Account. You may not (a) select or use a User Name of another person with the intent to impersonate that person, (b) use a name subject to the rights of any other person without authorization, or (c) use a User Name that we, in our sole discretion, deem inappropriate or offensive. You are responsible for maintaining the confidentiality of your User Name and password, and you will be responsible for all uses of your User Name and password, whether or not authorized by you.

In order to use the Website, you need to obtain a pass code (consisting of a username and a password. Pass codes are issued only to individual subscribers and learning institutions or teachers (collectively, "Users") who have registered.

Pass codes that have been issued to learning institutions or teachers may not be shared. They may only be used by the administrators, teachers and students to whom they are assigned. Users remain at all times solely and fully responsible for the proper use of pass codes issued hereunder. Individual subscribers may share their access codes with their, spouse, children or grandchildren ("Immediate Family") only. Users remain at all times solely and fully responsible for the proper use of pass codes issued hereunder. Individual subscribers who intend to share their pass codes with Users of their Immediate Family under 13 years of age agree to supervise the minors' use of the Website.

Using Your Account

All Users are entirely liable for all activities conducted through that Account, and are responsible for ensuring that any other person who uses the Account is aware of, and complies with, the terms of this Agreement. Each person who uses the Account agrees to be bound by the terms of this Agreement, whether or not such person is a Member. You will notify us of any known or suspected unauthorized use(s) of your Account, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of your User Name and password. We will have no liability for any circumstances arising from the unauthorized use of a User Name, Member's password or your Account. Any fraudulent, abusive, or otherwise illegal activity on your Account may be reported to appropriate law-enforcement agencies by us.

If you have reason to believe that your Account is no longer secure (for example, in the event of a loss, theft, or unauthorized disclosure or use of your User Name, password, or any credit, debit, or charge card number stored on the Service), you must promptly change your password and notify us of the problem by sending an email to support@ExploreLearning.com.

Browsers, Equipment and Accessibility

Users are solely responsible for obtaining and maintaining equipment and software, including without limitation operating system and browser software, that conforms to ExploreLearning's specifications in effect, as revised from time to time, in order to connect to, communicate with and use the ExploreLearning website.

ExploreLearning shall use commercially reasonable efforts to maintain the accessibility of the Website at all times, but may discontinue some or all of the Website features or services at any time, with or without notice, in order to perform hardware or software maintenance and/or upgrades or problem resolution. Additionally, to the extent that use of the Website is prevented, hindered, delayed or made impracticable by reason of force majeure (including any cause that cannot be overcome by reasonable diligence and without unreasonable expense) or due to ExploreLearning's compliance with its commercially reasonable standard operating procedures or with any laws, rules, policies, practices or regulations of any industry association or organization, or any jurisdiction or governmental authority, ExploreLearning and its affiliates will be excused from such delay or performance.

Communications Authorities

Use of the Website is subject to the requirements, rules, regulations, operations and procedures of any relevant public communications authorities and/or private communications carriers. ExploreLearning (and its affiliates) shall not be liable for any



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