

MAINE STUDENT DATA PRIVACY AGREEMENT
Version 1.0

Regional School Unit 25 (RSU 25)

and

BrainPOP LLC

April 28, 2020

This Maine Student Data Privacy Agreement ("DPA") is entered into by and between the Regional School Unit 25 (RSU 25) (hereinafter referred to as "School Unit") and BrainPOP LLC (hereinafter referred to as "Provider") on the date provided on the preceding page. The Parties agree to the terms as stated herein.

RECITALS

WHEREAS, the Provider has agreed to provide the School Unit with certain digital educational services ("Services") pursuant to the Terms of Use and Privacy Policy, as posted on www.brainpop.com and updated from time to time, and that govern the use Provider's products ("Service Agreement"); and

WHEREAS, in order to provide the Services described in the Service Agreement, the Provider may receive or create, and the School Unit may provide, documents or data that are covered by several federal statutes, among them, the Federal Educational Rights and Privacy Act ("FERPA") at 20 U.S.C. §1232g et. seq. (34 CFR Part 99), Children's Online Privacy Protection Act ("COPPA"), 15 U.S.C. §§6501-6506; Protection of Pupil Rights Amendment ("PPRA") 20 U.S.C. §1232h et. seq.; and Individuals with Disabilities Education Act ("IDEA") 20 U.S.C. § 1400 et. seq. (34 CFR Part 300); and

WHEREAS, the documents and data transferred from School Units and created by the Provider's Services may also be subject to several state student privacy laws, including Maine's dissemination of student records law 20-A M.R.S. §6001; Maine Student Information Privacy Act 20-A M.R.S. §951 et. seq. ("MSIPA"); and Maine Unified Special Education Regulations ("MUSER") Maine Dep't of Edu. Rule Ch. 101; and

WHEREAS, this Agreement complies with applicable Maine laws, and federal law; and

WHEREAS, the Parties wish to enter into this DPA to ensure that the Service Agreement conforms to the requirements of the privacy laws referred to above and to establish implementing procedures and duties; and

WHEREAS, the Provider may, by signing the "General Offer of Privacy Terms", agree to allow other school units in Maine the opportunity to accept and enjoy the benefits of this DPA for the Services described herein, without the need to negotiate terms in a separate DPA.

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

ARTICLE I: PURPOSE AND SCOPE

- 1. Purpose of DPA.** The purpose of this DPA is to describe the duties and responsibilities to protect student data transmitted to Provider from the School Unit pursuant to the Service Agreement, including compliance with all applicable federal and state privacy statutes, including FERPA, PPRA, COPPA, IDEA, MSIPA, and MUSER and other applicable Maine laws, all as may be amended from time to time. In performing these Services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the School Unit. Provider shall be under the direct control and supervision of the School Unit with respect to the use and maintenance of information shared with Provider by School Unit pursuant to this Agreement and the Service Agreement.

2. **Nature of Services Provided.** The Provider has agreed to provide the following digital educational services described below and as may be further outlined in Exhibit "A" hereto:
 - **BrainPOP, BrainPOP Jr, BrainPOP Espanol, BrainPOP Francais, BrainPOP ELL**
3. **Student Data to Be Provided.** In order to perform the Services described in the Service Agreement, School Unit shall provide the categories of data described below or as indicated in the Schedule of Data, attached hereto as Exhibit "B".
4. **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 the Service Agreement.

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Student Data Property of School Unit.** All Student 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 School Unit. The Provider further acknowledges and agrees that all copies of such Student 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 Student Data. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data shall remain the exclusive property of the School Unit. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the School Unit as it pertains to the use of Student Data notwithstanding the above. Provider may transfer pupil-generated content to a separate account, according to the procedures set forth below.
2. **Parent Access.** School Unit shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Student Data on the pupil's records, correct erroneous information, and procedures for the transfer of pupil-generated content to a personal account, consistent with the functionality of services. Provider shall respond in a reasonably timely manner (and no later than 30 days from the date of the request for Student Data related to regular education students; and without unnecessary delay for Student Data related to special education students and, for such requests made in anticipation of an IEP meeting, due process hearing, or resolution session, without unnecessary delay and before any such meeting, due process hearing, or resolution session and, in either case, in no event more than 30 days from the date of the request) to the School Unit's request for Student Data in a pupil's records held by the Provider to view or correct as necessary. In the event that a parent of a pupil or other individual contacts the Provider to review any of the Student Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the School Unit, who will follow the necessary and proper procedures regarding the requested information.
3. **Omitted**
4. **Third Party Request.** Should a Third Party, including law enforcement and government entities, contact Provider with a request for data held by the Provider pursuant to the Services, the Provider shall redirect the Third Party to request the data directly from the School Unit Unless legally prohibited. Provider shall notify the School Unit in advance of a compelled disclosure to a Third Party. The

Provider will not use, disclose, compile, transfer, and/or sell the Student Data and/or any portion thereof to any third party or other entity or allow any other third party or other entity to use, disclose, compile, transfer or sell the Student Data and/or any portion thereof unless otherwise agreed to.

5. **No Unauthorized Use.** Provider shall not use Student Data for any purpose other than as explicitly specified in the Service Agreement. Any use of Student Data shall comply with the terms of this DPA and the Service Agreement.
6. **Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions pursuant to the Service Agreement, whereby the Subprocessors agree to protect Student Data in a manner consistent with the terms of the DPA and/or the Service Agreement.

ARTICLE III: DUTIES OF SCHOOL UNIT

1. **Provide Data In Compliance With FERPA.** School Unit shall provide data for the purposes of the Service Agreement in compliance with FERPA, COPPA, PPRA, IDEA, MSIPA, and MUSER and all other applicable Maine privacy statutes and regulations referenced or identified in this DPA.
2. **Annual Notification of Rights.** If the School Unit has a policy of disclosing education records under 34 CFR § 99.31 (a) (1), School Unit 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, and determine whether Provider qualifies as a “school official.”
3. **Reasonable Precautions.** School Unit shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the Services and hosted data.
4. **Unauthorized Access Notification.** School Unit shall notify Provider promptly of any known or suspected unauthorized access. School Unit 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 state and federal laws and regulations pertaining to data privacy and security, including FERPA, COPPA, PPRA, IDEA, MSIPA, MUSER and all other applicable Maine privacy statutes and regulations identified in this DPA.
2. **Authorized Use.** The Student Data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services stated in the Service Agreement and/or otherwise authorized under the statutes referred to in subsection (1), above. Provider also acknowledges and agrees that it shall not make any re-disclosure of any Student Data or any portion thereof, including without limitation, meta data, user content or other non-public information and/or personally identifiable information contained in the Student Data except as stated in the Service Agreement.

3. **Employee Obligation.** Provider shall require all employees and agents who have access to Student Data to comply with Provider's policies with respect to the data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to Student Data.
4. **No Disclosure.** De-identified information may be used by the Provider for the purposes of development, research, and improvement of educational sites, services, or applications, as any other member of the public or party would be able to use de-identified data pursuant to 34 CFR 99.31(b). Provider agrees not to attempt to re-identify de-identified Student Data and not to transfer de-identified Student 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 School Unit, who has provided prior written consent for such transfer. Provider shall not copy, reproduce or transmit any data obtained under the Service Agreement and/or any portion thereof, except as necessary to fulfill the Service Agreement. De-identified information and anonymous information may also be used and shared with third party web analytical tools for tracking analytical information and also may be used and shared for educational research purposes and to evaluate, inform or show the efficacy of Provider's services.
5. **Disposition of Data.** The School Unit has access to a user-friendly administrator dashboard that allows direct control over the Student Data at all times. The administrator on the account can create, update, review, modify and delete individual accounts, and monitor logins in the individual accounts. The School Unit is able to delete information at any time and in real time using the Administrator Dashboard. Once information is deleted, Provider does not retain any copies. Teachers may also choose to archive the classroom they created. Classrooms that have been archived are retained for a period of two years. After such period, all information is automatically disposed and deleted; first it is deleted from the server and two weeks thereafter it is deleted from any backup server and cannot be restored. All student data will be deleted after a period of two years after expiration or termination of the applicable subscription. The duty to dispose of or delete Student Data shall not extend to data that has been de-identified or placed in a separate student account, pursuant to the other terms of the DPA. The School Unit may employ a "Directive for Disposition of Data" Form, a copy of which is attached hereto as Exhibit "D". Upon receipt of a request from the School Unit, the Provider will immediately provide the School Unit with any specified portion of the Student Data within three (3) calendar days of receipt of said request.
6. **Advertising Prohibition.** Without limiting any other provision in this DPA, Provider is specifically prohibited from using, disclosing, or selling Student Data to (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing, advertising, or other commercial efforts by a Provider; (c) develop a profile of a student, family member/guardian or group, for any commercial purpose other than providing the Service(s) to School Unit; or (d) use the Student Data for the development of commercial products or services, other than as necessary to provide the Service(s) to School Unit.

ARTICLE V: DATA PROVISIONS

1. **Data Security.** The Provider agrees to abide by and maintain commercially reasonable data security measures, consistent with industry standards and commercially reasonable technology practices, to

protect Student Data from unauthorized disclosure or acquisition by an unauthorized person. The general security duties of Provider are set forth below. Provider may further detail its security programs and measures in Exhibit "F" hereto. These measures shall include, but are not limited to:

- a. **Passwords and Employee Access.** Provider shall secure usernames, passwords, and any other means of gaining access to the Services or to Student Data, based on industry standards. . Provider shall only provide access to Student Data to employees or contractors that are performing the Services. Employees and contractors with access to Student Data shall have signed confidentiality agreements regarding said Student Data. All employees with access to Student Records shall pass criminal background checks.
- b. **Destruction of Data.** Provider shall destroy or delete all Student Data obtained under the subscription when it is no longer needed for the purpose for which it was obtained and/or transfer said data to School Unit or School Unit's designee, according to the Service Agreement. Nothing in the Service Agreement authorizes Provider to maintain Student Data two years following the termination or expiration of the subscription. The School Unit can delete the Student Data at any time prior to the expiration or termination of the subscription. Once deleted by School Unit, it will be purged from Provider's servers within two weeks.
- c. **Security Protocols.** Both parties agree to maintain security protocols that meet industry practices in the transfer or transmission of any data, including ensuring that data may only be viewed or accessed by parties legally allowed to do so. Provider shall maintain all data obtained or generated pursuant to the Service Agreement in a secure computer environment and not copy, reproduce, or transmit data obtained pursuant to the Service Agreement, except as necessary to fulfill the purpose of data requests by School Unit.
- d. **Employee Training.** The Provider shall provide periodic security training to those of its employees who operate or have access to the system. Further, Provider shall provide School Unit with contact information of an employee who School Unit may contact if there are any security concerns or questions.
- e. **Security Technology.** When the service is accessed using a supported web browser, Secure Socket Layer ("SSL") or equivalent technology shall be employed to protect data from unauthorized access. The service security measures shall include server authentication and data encryption. Provider shall host data pursuant to the Service Agreement in an environment using a firewall that is periodically updated according to industry standards.
- f. **Security Coordinator.** Provider shall provide the name and contact information of Provider's Security Coordinator for the Student Data received pursuant to the Service Agreement.
- g. **Subprocessors Bound.** Provider shall enter into written agreements whereby Subprocessors agree to secure and protect Student Data in a manner consistent with the terms of the Service Agreement. Provider shall periodically conduct or review compliance monitoring and assessments of Subprocessors to determine their compliance..

- h. Periodic Risk Assessment.** Provider further acknowledges and agrees to conduct periodic risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner. Upon reasonable request from School Unit, Provider may provide School Unit with records evidencing completion of such periodic risk assessments and documenting any identified security and privacy vulnerabilities as well as the remedial measures taken to correct them, to the extent it does not violate Provider’s confidentiality obligations with other customers.
- i. Backups.** Provider agrees to maintain backup copies, backed up at least daily, of Student Data in case of Provider’s system failure or any other unforeseen event resulting in loss of Student Data or any portion thereof.
- j. Audits.** Provider may provide School Unit with third party audit reports, if reasonably requested. The Provider will reasonably cooperate with the School Unit and any local, state, or federal agency with oversight authority/jurisdiction in connection with any investigation of the Provider and/or delivery of Services to students and/or School Unit, without compromising Provider’s confidentiality obligations to other customers and records pertaining directly to the, School Unit. Failure to cooperate shall be deemed a material breach of the Agreement.

2. Data Breach. In the event that Student Data is accessed or obtained by an unauthorized individual, Provider shall provide notification to School Unit within a reasonable amount of time of the incident. Provider may follow the following process for such notification:

- a.** The security breach notification shall be written in plain language, may be titled “Notice of Data Breach,” and may present the information described herein under the following headings: “What Happened,” “What Information Was Involved,” “What We Are Doing,” “What You Can Do,” and “For More Information.” Additional information may be provided as a supplement to the notice.
- b.** The security breach notification described above in section 2(a) may include if applicable and known the following information:

 - i.** The name and contact information of the reporting School Unit 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.
 - v.** A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
- c.** At School Unit’s discretion, the security breach notification may also include any of the following:

- i. Information about what the agency has done to protect individuals whose information has been breached.
 - ii. Advice on steps that the person whose information has been breached may take to protect himself or herself.
- d. Provider agrees to adhere to all requirements in applicable state and in federal law with respect to a data breach related to the Student Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
 - e. Provider further acknowledges and agrees to have a written incident response plan that 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 Student Data or any portion thereof, including personally identifiable information and agrees to provide School Unit, upon request, with a copy of said written incident response plan.

ARTICLE VI- GENERAL OFFER OF TERMS

Provider may, by signing the attached Form of General Offer of Privacy Terms (General Offer, attached hereto as Exhibit "E"), be bound by the terms of this to any other School Unit who signs the acceptance on in said Exhibit. The Form is limited by the terms and conditions described therein.

ARTICLE VII: MISCELLANEOUS

1. **Term**. The Provider shall be bound by this DPA for the duration of the subscription or so long as the Provider maintains any Student Data.
2. **Termination**. In the event that either party seeks to terminate this DPA, they may do so by mutual written consent so long as the subscription has lapsed or has been terminated.
3. **Effect of Termination Survival**. If the subscription is terminated, the Provider shall dispose of and destroy all of School Unit's data pursuant to Article IV, section 5, and Article V, section 1(b).
4. **Priority of Agreements**. This DPA shall govern the treatment of student records 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, or with any other bid/RFP, license agreement, terms of use, or privacy policy, or writing, the terms of this DPA shall apply and take precedence. Except as described in this paragraph, all other provisions of the Service Agreement shall remain in effect.
5. **Notice**. All notices or other communication required or permitted to be given hereunder must be in writing and given by personal delivery, facsimile or e-mail transmission (if contact information is provided for the specific mode of delivery), or first class mail, postage prepaid, sent to the designated

representatives before:

The designated representative for the Provider for this Agreement is:

Legal Department
212-574-6000
legal@brainpop.com _____

The designated representative for the School Unit for this Agreement is:

Name: Jim Morrill
Title: Director of Technology
Address: 62 Mechanic Street, Bucksport, Maine 04416
Telephone Number: (207)469-7311
Email Address: tech@rsu25.org

6. **Entire Agreement.** This DPA and the Service Agreement constitutes the entire agreement of the parties relating to the subject matter hereof and supersedes all prior communications, representations, or agreements, oral or written, by the parties relating thereto. This 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.
7. **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.
8. **Governing Law; Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MAINE, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS IN CUMBERLAND COUNTY, MAINE FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. NOTWITHSTANDING THE FOREGOING, ANY CLAIM IN CONNECTION WITH THIS

AGREEMENT MUST FIRST, AND BEFORE TAKING ANY OTHER LEGAL ACTION, BE SUBMITTED TO OPERATOR IN THE FORM OF A COMPLAINT (TO: INFO@BRAINPOP.COM), TO ENABLE THE PARTIES TO RESOLVE THE CLAIM IN A FRIENDLY AND EFFECTIVE MANNER. NOTWITHSTANDING THE FOREGOING, PROVIDER MAY SEEK INJUNCTIVE OR OTHER EQUITABLE RELIEF TO PROTECT ITS INTELLECTUAL PROPERTY RIGHTS IN ANY COURT OF COMPETENT JURISDICTION.

9. **Authority**. Provider represents that it is authorized to bind to the terms of this Agreement, including confidentiality and destruction of Student Data and any portion thereof contained therein, all related or associated institutions, individuals, employees or contractors who may have access to the Student Data and/or any portion thereof, or may own, lease or control equipment or facilities of any kind where the Student Data and portion thereof stored, maintained or used in any way.
10. **Waiver**. No delay or omission of the School Unit to exercise any right hereunder shall be construed as a waiver of any such right and the School Unit reserves the right to exercise any such right from time to time, as often as may be deemed expedient.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Maine Student Data Privacy Agreement as of the last day noted below.

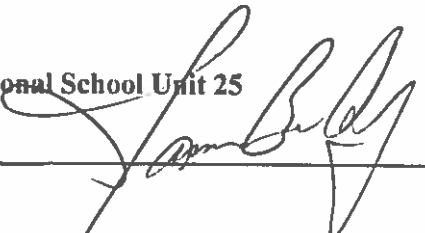
Name of Provider: BrainPOP LLC

BY: H. Scott Kirkpatrick Date: 4/29/2020

Printed Name: H. Scott Kirkpatrick Title/Position: CEO

Address for Notice Purposes:

71 W 23rd St, 17th Floor
New York, NY 10010

Regional School Unit 25
By: 

Date: 5/5/20

Printed Name: James Boothby

Title/Position: Superintendent, RSU 25

Address for Notice Purposes:

62 Mechanic Street
Bucksport, Maine 04416

EXHIBIT "A"

DESCRIPTION OF SERVICES

BrainPOP, BrainPOP Jr, BrainPOP ELL, BrainPOP Francais, BrainPOP Espanol

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.	x
	Other application technology meta data-Please specify:	
Application Use Statistics	Meta data on user interaction with application	
Assessment	Standardized test scores	
	Observation data	
	Other assessment data-Please specify:	
Attendance	Student school (daily) attendance data	
	Student class attendance data	
Communications	Online communications that are captured (emails, blog entries)	
Conduct	Conduct or	

	behavioral data	
Demographics	Date of Birth	
	Place of Birth	
	Gender	
	Ethnicity or race	
	Language information (native, preferred or primary language spoken by student)	
	Other demographic information-Please specify:	
Enrollment	Student school enrollment	
	Student grade level	x
	Homeroom	
	Guidance counselor	
	Specific curriculum programs	
	Year of graduation	x
	Other enrollment information-Please specify:	
Parent/Guardian Contact Information	Address	
	Email	
	Phone	
Parent/Guardian ID	Parent ID number (created to link parents to students)	
Parent/Guardian Name	First and/or Last	

Schedule	Student scheduled courses	
	Teacher names	
Special Indicator	English language learner information	
	Low income status	
	Medical alerts /health data	
	Student disability information	
	Specialized education services (IEP or 504)	
	Living situations (homeless/foster care)	
	Other indicator information-Please specify:	
Category of Data	Elements	Check if used by your system
Student Contact Information	Address	
	Email	
	Phone	
Student Identifiers	Local (School district) ID number	
	State ID number	
	Vendor/App assigned student ID number	x
	Student app username	x
	Student app passwords	x
Student Name	First and/or Last	x

Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)	
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	
Student Survey Responses	Student responses to surveys or questionnaires	
Student work	Student generated content; writing, pictures etc.	x
	Other student work data -Please specify:	See attached
Transcript	Student course grades	
	Student course data	
	Student course grades/performance scores	
	Other transcript data -Please specify:	
Transportation	Student bus assignment	
	Student pick up and/or drop off location	
	Student bus card ID number	
	Other transportation data - Please specify:	

Other	Please list each additional data element used, stored or collected by your application:	x

EXHIBIT B – “OTHER”

We collect the following types of information:

Information collected during subscription process: During the registration process for any of our subscription types, we ask the subscriber to provide us with a name, email address, school or district affiliation (when applicable), phone number, and billing information. We use the contact information to send users service-related announcements. For instance, we may send emails about routine maintenance or new feature launches. We may also use this contact information to request feedback on our products and services, to inform future customer service and product improvements. All such communications include an opt-out feature.

Username and password: Subscribers may create a username and password during the registration process, or, if they prefer, we can assign these credentials. We use subscribers' usernames and passwords to authenticate log-ins; allow access to the paid content; and monitor subscription compliance. The username is also used to authenticate users when they request technical support. Passwords are all encrypted when stored. For more information on our security practices, see "How We Store and Process Your Information" below.

Information collected automatically: We automatically receive and record information on our server logs from a user's browser, including the user's IP address. We use IP addresses to maintain a user's session, and we do not store them after the user's session has ended. We also use the IP address to see whether a user is located outside of the United States, where a country-wide log-in option is activated. We do not store this information beyond the initial page load, and we do not otherwise combine this information with other PII.

We also use cookies, a standard feature found in browser software, in order to establish and authenticate user sessions, enable access to paid content, and monitor potential account misuse. We do not use cookies to collect personally identifiable information and we do not combine such general information with other PII to identify a user. Disabling our cookies will prevent access to paid content and limit some of the functionalities within our website(s) or app(s). To learn more about browser cookies, including how to manage or delete them, look in the Tools or Help section of your Web browser, or visit allaboutcookies.org.

We do not collect users' web search history across third party websites or search engines. However, if a user navigates to our website via a web search, their web browser may automatically provide us with the web search term they used in order to find us. Our website does not honor "do not track" signals transmitted by users' web browsers, so we encourage you to visit the following link if you would like to opt out of certain tracking: <http://www.networkadvertising.org/choices> or <http://www.aboutads.info/choices/>. Note that if you wish to opt out, you will need to do so separately for each of your devices and for each web browser you use (such as Internet Explorer®, Firefox®, Safari®).

Third parties: We may use a variety of third party service providers, such as analytics companies, to understand usage of our services. We may allow those providers to place and read their own cookies, electronic images known as web beacons or single-pixel gifs and similar technologies, to help us measure how users interact with our services. This technical information is collected directly and automatically by these third parties. If you wish to opt out of third party cookies, you may do so through your browser, as mentioned above in Information collected automatically.

Information collected when using My BrainPOP®: School, district, and homeschool subscriptions include the option of using My BrainPOP, our individual accounts system, which allows students and their teachers to keep track of learning. Student and teacher accounts are organized into classrooms created by the teachers of the subscribing school. For these accounts, we ask teachers to enter their first and last name and their students'; their username; the class with which they are associated; and a security question for use if they need to reset their password. We also require the teachers' email for password recovery and for sending notifications or messaging about new features, product use recommendations,

efficiency testing, backup schedules, survey and research participation invitations, and more (messaging may not be available in all jurisdictions). An opt-out link will be included at the bottom of messages that are not solely operational. The only Personally Identifiable Information collected about students is their name, class, graduation year, and work associated with the account (student records). If a student uses the Make-a-Movie™ feature, his or her recorded voice may also be collected as part of the movie file that will be saved. We do NOT collect students' emails or addresses. We store the data created in each student account ("Student Records"), such as the history of BrainPOP movies they've watched, the quizzes and activities they've completed, Snapshots they've taken on certain GameUp® games, movies they've created using Make-a-Movie, and feedback provided by the teacher to the student through My BrainPOP. We do so for the purpose of enhancing teacher and student use of the website. Please see the Using My BrainPOP® section below for additional privacy and security information pertaining to My BrainPOP.

We Do NOT Collect or Use Information As Follows:

Certain activity pages and quizzes allow users to enter their names prior to printing or emailing (to a teacher, for example). We do not collect or store this information. A user may enter his or her name when taking a quiz on an app, but we do not collect it. That information is only stored on the user's device.

Other than in the places and for the purposes explicitly disclosed in this policy, we do not knowingly collect Personally Identifiable Information directly from users under the age of 13. If we learn that we have inadvertently collected any Personally Identifiable Information from a user under 13, we will take steps to promptly delete it. If you believe we have inadvertently collected personally identifiable information from a user under 13, please contact us at privacy@brainpop.com.

We do not collect, use or share Personally Identifiable Information other than as described in our privacy policy, or with the consent of a parent or legal guardian as authorized by law, or otherwise as directed by an applicable district or school or as required by contract or by law.

In no event shall we use, share or sell any student Personally Identifiable Information for advertising or marketing purposes.

How We Share Your Information

We may provide Personally Identifiable Information to our partners, business affiliates, and third party service providers who work for BrainPOP and operate some of its functionalities - these may include hosting, streaming, and credit card processing services. A current list of these third parties is available upon request through privacy@brainpop.com. These third parties are well-known, established and/or vetted providers, who are bound contractually to practice adequate security measures and to use your information solely as it pertains to the provision of their services. They do not have the independent right to share your personally identifiable information. We share anonymous or de-identified information about our users when they are using third party web analytical tools, for tracking analytical information. We may use or share anonymous or aggregate and de-identified information for educational research purposes, to evaluate, inform, or show the efficacy of our services.

We will NOT share any personally identifiable information for marketing or advertising purposes.

EXHIBIT “C”

DEFINITIONS

METDA (Maine Educational Technology Directors Association): Refers to the membership organization serving educational IT professionals in the state of Maine to promote general recognition of the role of IT professionals in educational institutions; improve network and computer services; integrate emerging technologies; encourage appropriate use of information technology for the improvement of education and support standards whereby common interchanges of electronic information can be accomplished efficiently and effectively.

Covered Information: Covered Information means materials that regard a student that are in any media or format and includes materials as identified by MSIPA. The categories of Covered Information under Maine law are found in Exhibit B. For purposes of this DPA, Covered Information is referred to as Student Data.

Educational Records: Educational Records are official records, files and data directly related to a student and maintained by the school or school unit, 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 and 504 plans. The categories of Educational Records under Maine law are also found in Exhibit B. For purposes of this DPA, Educational Records are referred to as Student Data.

De-Identifiable Information (DII): De-Identification refers to the process by which the Provider removes or obscures any Personally Identifiable Information (“PII”) from student records in a way that removes or minimizes the risk of disclosure of the identity of the individual and information about them.

NIST 800-63-3: Draft National Institute of Standards and Technology (“NIST”) Special Publication 800-63-3 Digital Authentication Guideline.

Operator: The term “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 primarily for K–12 school purposes and was designed and marketed for K–12 school purposes. This term shall encompass the term “Third Party,” as it is found in applicable state statutes.

Personally Identifiable Information (PII): The terms “Personally Identifiable Information” or “PII” shall include personally identifiable student data, metadata, and user or pupil-generated content obtained by reason of the use of Provider’s software, website, service, or app, including mobile apps, whether gathered by Provider or provided by School Unit or its users, students, or students’ parents/guardians. PII includes Indirect Identifiers, which is any information that, either alone or in aggregate or combination, would allow a reasonable person who does not have knowledge of the relevant circumstances to be able to identify a student. For purposes of this DPA, Personally Identifiable Information shall include the categories of information listed in the definition of Student Data.

Provider: For purposes of the Service Agreement, the term “Provider” means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil

records. Within the DPA, the term "Provider" includes the term "Third Party" and the term "Operator" as used in applicable state statutes.

Pupil Generated Content: The term "pupil-generated content" means materials or content created by a pupil during and for the purpose of education 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 pupil content.

Pupil Records: Means both of the following: (1) Any information that directly relates to a pupil that is maintained by School Unit and (2) any information acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other School Unit employee. For the purposes of this Agreement, Pupil Records shall be the same as Educational Records and Covered Information.

Service Agreement: Refers to the Terms of Use and Privacy Policy as posted on www.brainpop.com, as updated from time to time that governs the use of Provider's products/services.

School Official: For the purposes of this Agreement 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 education records; and (3) Is subject to 34 CFR 99.33(a) governing the use and re-disclosure of personally identifiable information from student records.

Student Data: Student Data includes any data, whether gathered by Provider or provided by School Unit or its users, students, , that is descriptive of the student including, but not limited to, information in the student's educational record or email, first and last name, home address, telephone number, email address, or other information allowing 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, food purchases, political affiliations, religious information text messages, documents, student identifies, search activity, photos, voice recordings or geolocation information. Student Data shall constitute Pupil Records for the purposes of this Agreement, and for the purposes of Maine and Federal laws and regulations. Student Data as specified in Exhibit B is confirmed to be collected or processed by the Provider pursuant to the Services. Student Data shall not constitute that information that has been anonymized or de-identified, or anonymous or aggregate usage data regarding a student's use of Provider's services.

SDPC (The Student Data Privacy Consortium): Refers to the national collaborative of schools, districts, regional, territories and state agencies, policy makers, trade organizations and marketplace providers addressing real-world, adaptable, and implementable solutions to growing data privacy concerns.

Subscribing School Unit: A School Unit that was not party to the original Services Agreement and who accepts the Provider's General Offer of Privacy Terms.

Subprocessor: For the purposes of this Agreement, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than School Unit or Provider, who Provider uses for data collection, analytics, storage, or other service to operate and/or improve its software, and who has direct access to PII.

Targeted Advertising: Targeted advertising means presenting an advertisement to a student where the selection of the advertisement is based on student information, student records or student generated content or inferred over time from the usage of the Provider’s website, online service or mobile application by such student or the retention of such student’s online activities or requests over time.

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 pupil records. However, for the purpose of this Agreement, 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

RSU 25 ("School Unit") directs **BrainPOP LLC** ("Company") to dispose of data obtained by Company pursuant to the terms of the Service Agreement between School Unit and Company. 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. Timing of Disposition

Data shall be disposed of by the following date:

___ As soon as commercially practicable

___ By **[Insert Date]**

4. Signature

Authorized Representative of School Unit

Date

5. Verification of Disposition of Data

Authorized Representative of Company

Date

EXHIBIT "E"

GENERAL OFFER OF PRIVACY TERMS

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and **Regional School Unit 25** and which is dated **April 28, 2020** to any other School Unit ("Subscribing School Unit") who accepts this General Offer through its signature below. This General Offer shall extend only to privacy protections and Provider's signature shall not necessarily bind Provider to other terms, such as price, term, or schedule of services, or to any other provision not addressed in this DPA. The Provider and the other School Unit may also agree to change the data provide by School Unit to the Provider to suit the unique needs of the School Unit. The Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statutes; (2) a material change in the services and products subject listed in the Originating Service Agreement; or any time after the date of Provider's signature to this Form. Provider shall notify the either the METDA or SDPC in the event of any withdrawal so that this information may be transmitted to the Alliance's users.

BrainPOP LLC

BY: H. Scott Kirkpatrick Jr.

Date: 4/29/2020

Printed Name: H. Scott Kirkpatrick Jr.

Title/Position: CEO

2. Subscribing School Unit

A Subscribing School Unit, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing School Unit and the Provider shall therefore be bound by the same terms of this DPA.

BY: _____

Date: _____

Printed Name: _____

Title/Positon _____

EXHIBIT “F” DATA SECURITY REQUIREMENTS

[INSERT ADDITIONAL DATA SECURITY REQUIREMENTS HERE]