

**OPTIONAL EXHIBIT "A" GENERAL  
OFFER OF PRIVACY TERMS**

**1. Offer of Terms** Provider offers the same privacy protections found in this DPA between it and the LEA to any other school district ("Subscribing LEA") who accepts this General Offer through its signature below. The Provider agrees that the information on the next page will be replaced throughout the Agreement with the information specific to the Subscribing LEA filled on the next page for the Subscribing LEA. 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 Subscribing LEA may also agree to change the data provide by LEA to the Provider to suit the unique needs of the Subscribing LEA. The Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statues; (2) a material change in the services and products subject listed in the Originating Service Agreement; or three (3) years after the date of Provider's signature to this Form. Provider shall notify the LEA in the event of any withdrawal so that this information may be transmitted to the Subscribing LEAs.

Provider's Name: DeltaMath Solutions Inc.

BY: Ben Peled Date: 06-07-2022

Printed Name:

Ben PeledV

Title/Position:

Vice President

**2. Subscribing LEA (Local Education Agency)**

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA's individual information is contained on the next page.

In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

#### XV. NOTICES:

All notices, consents, request, instructions approvals or other communications provided for herein shall be in writing and delivered by both email and personal delivery or regular U.S. mail, return receipt requested, to the last known address of the party being provided such notice.

#### XVI. ENFORCEMENT AND INTERPRETATION:

This Agreement shall be enforced and interpreted pursuant to the laws of the State of Montana. Jurisdiction over any claim or action for interpretation or enforcement of, or otherwise arising from the terms and conditions of this Agreement, shall be with the appropriate Montana District Court.

This agreement is subject to the laws of Montana and School District policy. Contractor is expressly notified that the agreement is subject to the Montana Pupil Online Personal Information Protection Act and violation of the act may be considered a crime a conviction of such may result in a fine not less than \$200 or more than \$500.

Any civil claim arising out of or related to the Agreement, or services provided under the Agreement, may be subject to mediation at the request of either party. School District and Contractor expressly agree that mediation shall not be a condition precedent to the initiation of any litigation arising out of such Claims. Claims for injunctive relief shall not be subject to this Section. Any claim not resolved in mediation shall be subject to litigation in accordance with the laws of the State of Montana. Any litigation shall be conducted in Montana district court. Mandatory and exclusive venue for any disputes shall be in the county in which the School District is located.

Notwithstanding anything to the contrary in the Agreement or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder. The parties may mutually agree in writing to

All services provided by Contractor under this Agreement will be completed in accordance with state and federal law and School District Policy. Copies of School District Policies are available upon request. The parties specifically agree to collaborate in the enforcement and compliance with the Family Educational Rights and Privacy Act.

All employees hired by Contractor to perform services under this Agreement shall be hired by Contractor on the basis of merit and qualifications to perform the duties necessitated by the requirements of this Agreement. Such qualifications are those abilities of an applicant for employment genuinely related to competent and satisfactory performance of Contractor's obligations under this Agreement. Contractor agrees and warrants that Contractor's hiring practices related to employees performing services under this Agreement, as well as Contractor's practices related to promotion, retention, compensation, and other terms, conditions or privileges of employment, shall be nondiscriminatory, and such hiring, promotion, retention, and general employment practices shall not be based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

#### X. EMPLOYEE REQUIREMENTS:

All employees of Contractor performing labor under this Agreement that have unsupervised access to students, including Contractor in the event that Contractor personally performs labor under this Agreement, shall be subjected to a name-based and fingerprint criminal background investigation conducted by an appropriate law enforcement agency. Contractor shall provide to the District the results of such investigation for each employee (including Contractor) prior to any such employee performing any services under this Agreement. The District shall have the authority, in the discretion of the District Superintendent, to prohibit Contractor from permitting any such employee to perform services under this Agreement on the basis of information set forth in the results of a criminal background investigation.

#### XI. EMPLOYEE MISCONDUCT:

All employees of Contractor (including Contractor) shall perform services under this Agreement in a professional manner, and shall, at all times while

Contractor will not share School District data, with or disclose it to any third party, except to affiliated subcontractors, agents, or third-party service providers of the Contractor, without prior specific and informed written consent of the School District, except as required by law. Contractor will not post School District or specific student data to any searchable or publicly viewable website. Contractor shall not disclose protected information unless the disclosure is made in accordance with School District policy, state or federal law, or with parent consent. Contractor shall implement and maintain reasonable security procedures and practices appropriate to the nature of the protected information and safeguard that information from unauthorized access, destruction, use, modification, or disclosure in accordance with School District policy and this Agreement.

School District Data will not be stored outside of the United States without prior, specific and informed written consent from the School District.

All goods, products, materials, documents, reports, writings, video images, photographs, papers and intellectual property of any nature including software or computer images prepared by the Contractor (or subcontractors) for the School District or from School District-provided material will not be disclosed to any other person or entity and remains the property of the school system. All student-produced work remains the property of the school system or that eligible student. The Contractor has a limited, nonexclusive license to the data described herein solely for the purpose of performing its obligations as outlined in the Agreement. This Agreement does not give Contractor any rights, implied or otherwise, to Data, content, or intellectual property, except as expressly stated in the Agreement, including any right to sell or trade Data.

Except as otherwise expressly prohibited by law, the Contractor will immediately notify the School District of any subpoenas, warrants, or other legal orders, demands or requests, including Audits, and governmental requests and demands, received by the Contractor seeking School District Data. If the School District receives a similar request, the Contractor will promptly supply the School District with copies of records or information required by the School District to respond.

Contractor will store and process School District Data in accordance with industry best practices. This includes appropriate administrative, physical,

Contractor will immediately provide written notification to the School District of any unauthorized disclosure of pupil information. Contract will coordinate with the School District to notify the parent, legal guardian, or pupil affected by an unauthorized disclosure of the pupil's records.

#### VII. CONFIDENTIALITY SAFEGUARDS:

Contractor will collect and use the School District's Data only for the purpose of fulfilling its duties and providing services under this Agreement, and for improving services under this Agreement.

If Contractor will have access to "education records" as defined under the Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99), the Contractor acknowledges that for the purpose of this Agreement it will be designated as a 'school official' with 'legitimate educational interests' and will use the data only for the purpose of fulfilling its duties under this Agreement. Contractor agrees to indemnify and hold harmless the Board of Trustees of the School District for any damages or costs, including reasonable attorney's fees, which arise out of any gross negligence or willful misconduct by Contractor, its agents and employees concerning its FERPA obligations under this section.

In performing services under this Agreement, Contractor and the School District may be exposed to and will be required to use certain "Confidential Information", as defined below. Contractor and the School District along with their employees, agents or representatives will not, use, directly or indirectly, such Confidential Information for purposes other than the purposes outlined in this Agreement.

Any Confidential Information acquired or received by either party (the "Recipient") in the course of this Agreement will not be disclosed or transferred to any person or entity other than to employees of a party and, as to Contractor, for the purpose of performing its obligations under this Agreement. Confidential Information received under this Agreement will be treated with the same degree of care and security as each party uses with respect to its own Confidential Information, but not less than a reasonable degree of care. The parties agree to use Confidential Information only for the purpose of performance of this Agreement and to make no copies except as

Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Contractor the agent, servant or employee of the School District; or 2) create any partnership, joint venture, or other association between the School District and Contractor. Any direction or instruction by the School District or any of its authorized representatives in respect of the work shall relate to the results the School District desires to obtain from the work, and shall in no way affect Contractor's or OPERATOR's independent status.

Contractor shall not use the image or likeness of the School District's buildings or the School District's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of the School District, without the School District's prior written consent. Contractor shall not have any authority to advertise or claim that the School District endorses Contractor's or OPERATOR's services, without the School District's prior written consent.

## VI. MONTANA PUPIL ONLINE PERSONAL INFORMATION PROTECTION ACT

In accordance with the Montana Pupil Online Personal Information Protection Act, pupil records continue to be the property of and under the control of the school district. Contractor is prohibited from using any information in pupil records for any purpose other than those required or specifically permitted by this Agreement. Contractor is specifically prohibited from using personally identifiable information in pupil records to engage in targeted advertising.

By executing this Agreement, Contractor certifies that pupil records will not be retained or available upon completion of the terms of the Agreement. Upon completion of this Agreement, Contractor will provide written certification to the School District pupil records are no longer held, possessed or otherwise available to Contractor or its employees, agents, or subcontractors. This requirement does not apply to pupil-generated content if a pupil chooses to establish or maintain an account with the third party for the purpose of storing that content.

Parents, guardians and eligible pupils have the right to inspect the personal information held by the Contractor. Parents, guardians, or pupils should

#### IV. DEFINITIONS:

“Data” include all Personally Identifiable Information (“PII”) and other non-public information including protected information as defined by Montana law. Data include, but are not limited to, student data, metadata, and user content.

Protected information may be created or provided by a pupil, or the pupil's parent or legal guardian, to an operator in the course of the pupil's, parent's, or legal guardian's use of the operator's K-12 online application or created or provided by an employee or agent of a school district to an operator in the course of the employee's or agent's use of the operator's K-12 online application; or gathered by an operator through the operator's K-12 online application. The term “protected information” includes but is not limited to:

- (i) information in the pupil's educational record or e-mail messages;
- (ii) first and last name, home address, telephone number, e-mail address, or other information that allows physical or online contact;
- (iii) discipline records, test results, special education data, juvenile dependency records, grades, or evaluations;
- (iv) criminal, medical, or health records;
- (v) social security number;
- (vi) biometric information;
- (vii) disability;
- (viii) socioeconomic information;
- (ix) food purchases;
- (x) political affiliation;
- (xi) religious information; or
- (xii) text messages, documents, pupil identifiers, search activity, photos,

The Subscribing LEA and the Provider DeltaMath Solutions Inc shall therefore be bound by the same terms of this DPA.

BY: Brian Conniff  
Date: 10/11/2023

Printed Name: Brian Conniff

Title/Position: Director of Technology

SCHOOL DISTRICT NAME: Missoula County Public Schools

DESIGNATED REPRESENTATIVE OF LEA:

Name Brian Conniff  
Title Director of Technology  
Address 905 South Ave. West  
Telephone Number 406 728 2400  
Email bconniff@mcpsmt.org

COUNTY OF LEA:  
Missoula