

**Weber School District's Technological Services and Systems
Memorandum of Agreement (MOA)**

THIS MEMORANDUM OF AGREEMENT, executed and effective as of the 19th day of September, 2017, by and between BRAINPOP LLC, (the "Company"), a corporation organized and existing under the laws of the state of New York and WEBER SCHOOL DISTRICT ("WSD"), a public school system organized and existing under the laws of the state of Utah, as authorized by the Board of Education of WSD ("WSD School Board"), a body corporate and legal subdivision of the state under the laws of Utah, recites and provides as follows. Collectively, the Company, WSD or WSD School Board are referred to hereinafter as "the Parties."

Recitals

The Company and the WSD School Board are parties to a certain agreement entitled "Terms of Use, User Agreement and Privacy Policy" hereafter referred to as the "Terms of Use". The use of BrainPOP products shall be governed by the Terms of Use as posted on www.brainpop.com and as updated from time to time. This Agreement will form an integral part of the Terms of Use and the District subscribing. Unless expressly changed herein, all other terms and conditions remain in full force and effect. If any contradiction or discrepancy between the terms of this Agreement to those of the Terms of Use, the terms of this Agreement shall prevail for the term of the applicable subscription.

The Company and the WSD School Board agree that the purpose of such terms and conditions is to ensure compliance with the Family Educational Rights and Privacy Act (FERPA), Utah Code 53A-1, Part 14, and the overall privacy and security of student data, including Personally Identifiable Information (PII) as defined in 34 C.F.R. §99.3 and personally identifiable student data, as defined in Utah Code 53A-1-1402, hereafter referred to as "Student Information". For the avoidance of doubt, Student Information does not include aggregate or de-identified student data. A further purpose of this Agreement is to (a) identify of the Company as an entity acting for the WSD School Board in its performance of functions that a WSD School Board employee otherwise would perform; and (b) establish procedures for the protection of Student Information, including procedures regarding the collection, use, storage, or sharing of Student Information and procedures regarding security and security breaches.

Agreement

The Parties understand, acknowledge, and agree to the following provisions:

Confidentiality Obligations Applicable to Certain WSD Student Information. The Company hereby agrees that it shall maintain, in strict confidence and trust, all WSD Student Information. Student Information shall not be shared with any other resource or entity that is not specifically described in this Agreement or Terms of Use.

The Company shall cause each officer, director, employee and other representative who shall have access to WSD Student Information during the term of the Agreement (collectively, the "Authorized Representatives") to maintain in strict confidence and trust all WSD Student Information. The Company shall take all reasonable steps to insure that no WSD Student Information is disclosed to any person or entity except those who (a) are Authorized Representatives of the Company performing functions for WSD under the Agreement and have agreed to be bound by the terms of this Agreement; (b) are authorized representatives of WSD, or (c) are entitled to such WSD Student Information from the Company pursuant to court order or federal and/or Utah law. The Company shall use WSD Student Information, and shall take all reasonable steps necessary to ensure that its Authorized Representatives shall use such information, solely for purposes related to and in fulfillment of the performance by the Company of its obligations pursuant to this MOA and Terms of Use

The Company shall: (a) designate one of its Authorized Representatives to be responsible for ensuring that the Company and its Authorized Representatives maintain the WSD Student Information as confidential; (b) train the other Authorized Representatives with regard to their confidentiality responsibilities hereunder and pursuant to federal; (c) maintain at all times a list of Authorized Representatives with access to WSD Student Information which shall be accessible to WSD at any time. WSD may conduct periodic privacy audits to confirm that policies and procedures as outlined in this MOA are being followed. The right to audit shall only apply to WSD's records and documents that are directly related to the contract or the District and number of audits shall be limited to no more than once year.

Prohibitions on the Use of Student Information. The Company shall not engage in secondary use of Student Information. Student Information shall only be used for the purposes intended and shall not be shared, sold, or moved to other companies or organizations nor shall other companies or organization be allowed access to said information except for Company's affiliates; however, the Company may sell Student Information if the Company is acquired through the purchase or merger with or other acquisition provided the Company remains in compliance with this MOA. The Company may not collect or use Student Information if the collection or use of the Student Information is inconstant with this MOA. The Company may not use Student Information for targeted advertising.

Allowed Use of Student Information. The Company may use Student Information for adaptive learning or customized student learning purposes or to market an educational application or product to a parent or legal guardian of a student if the Company did not use the Student Information shared or collected on behalf of WSD to market the educational application or product. The Company may use a recommendation engine to recommend to a student content or services that relates to learning or employment, within the Company's internal application, if the recommendation is not motivated by payment or other consideration from another party. The Company may respond to a student request for information or feedback if the content of the response is not motivated by payment or other consideration from another party. The Company may use Student Information to allow or improve operability and functionality of the Company's internal application.

Other Security Requirements. The Company shall maintain all technologies, policies, procedures and practices necessary to secure and protect the confidentiality and integrity of WSD Student Information, including procedures to (a) establish user IDs and passwords as necessary to protect such information; (b) protect all such user passwords from detection and unauthorized use; (c) prevent hostile or unauthorized intrusion that could result in data corruption, or deny service; (d) prevent and detect computer viruses from spreading to disks, attachments to e-mail, downloaded files, and documents generated by word processing and spreadsheet programs; (e) minimize system downtime; (f) notify WSD of planned system changes that may impact the security of WSD data; (g) return or destroy WSD data that exceed specified retention schedules or upon the request of WSD; (h) notify WSD of any data storage outside the United States; (i) in the event of system failure, enable immediate recovery of WSD Student Information to the previous business day. The Company guarantees that WSD Student Information shall not be sold to, accessed by, or moved by third parties.

In the event of a security breach, the Company shall (a) immediately take action to close the breach; (b) notify WSD promptly of Company's first knowledge of the breach, the reasons for or cause of the breach, actions taken to close the breach, and identify the WSD Student Information compromised by the breach; (c) return compromised WSD Student Information for review if applicable; (d) provide communications on the breach to be shared with affected parties and cooperate with WSD efforts to communicate to affected parties by providing WSD with prior review of press releases and any communications to be sent to affected parties; (e) take all legally required, reasonable, and customary measures in working with WSD to remediate the breach; (f) cooperate with WSD by providing information, records and witnesses needed to respond to any government investigation into the disclosure of such records or litigation concerning the breach to the extent it does not conflict with Company's confidentiality obligations; and (g) provide WSD with notice within 24 hours of notice or service on Company, whichever occurs first, of any lawsuits resulting from, or government investigations of, the Company's handling

of WSD Student Information of any kind, failure to follow security requirements and/or failure to safeguard WSD Student Information. The Company's compliance with the standards of this provision is subject to verification by WSD personnel or its agent at any time during the term of the subscription. The Company shall indemnify and hold harmless the WSD School Board from and against any loss, claim, cost (including attorneys' fees) or damage of any nature arising from or in connection with the breach by the Company or any of its officers, directors, employees, agents or representatives of the obligations of the Company or its Authorized Representatives under this provision. The indemnities set forth herein shall be limited to the amounts covered by insurance and subject to the following: WSD shall provide Company with (a) prompt written notice of such claim; (b) the right to solely control and direct the investigation, preparation, defense and settlement thereof, and c) reasonable assistance and information.

Disposition of WSD Student Information Upon Termination of the Subscription

Prior to the expiration of the term of the applicable subscription, or upon the earlier termination of the subscription for any reason, WSD may delete the student information. WSD has full control over the Student Information through the administrator dashboard. Once deleted by WSD, the Student Information will be purged from Company's servers within two weeks. The Company hereby acknowledges and agrees that, solely for purposes of receiving access to WSD Student Information and of fulfilling its obligations pursuant to this provision and for no other purpose (including without limitation, entitlement to compensation and other employee benefits), the Company and its Authorized Representatives shall be deemed to be school officials of the WSD School Board, and shall maintain WSD data in accordance with all applicable federal, state, and local laws, rules and regulations regarding the confidentiality of such records. The non-disclosure obligations of the Company and its Authorized Representatives regarding the information contained in WSD Student Information shall survive termination of the subscription..

Certain Representations and Warranties. The Company hereby represents and warrants as follows: (a) the Company has full power and authority to execute this MOA and to perform its obligations hereunder and thereunder; (b) the Terms of Use and this MOA constitute the valid and binding obligations of the Company, enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy or similar laws affecting the rights of creditors and general principles of equity; and (c) the Company's execution and delivery of the Terms of Use and compliance with its respective terms will not violate or constitute a default under, or require the consent of any third party to, any agreement or court order to which the Company is a party or by which it may be bound.

Governing Law; Venue. Notwithstanding any provision contained in the Terms of Use or MOU to the contrary, (a) this MOA shall be governed by and construed in accordance with the laws of the State of Utah, without reference to conflict of laws principles; and (b) any dispute hereunder which is not otherwise resolved by the parties hereto shall be decided by a court of competent jurisdiction located in the State of Utah. Notwithstanding the foregoing, any claim in connection with this MOA must first, and before taking any other legal action, be submitted to Company 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, Company may seek injunctive or other equitable relief to protect its intellectual property rights in any court of competent jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this MOA to be executed by their duly authorized officers effective as of the date first written above.

BRAINPOP LLC

By: Abraham Kadar

[Name] Dr. Abraham Kadar

[Title] CEO and Founder

WEBER SCHOOL DISTRICT

By: Tanya Miller Student Data Protection Manager

[Name] Tanya Miller

[Title]