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Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Preston Thomas, Chief Systems and Services Officer
Susan Beltz, Chief Technology Officer

Meeting Date November 17, 2021

Subject Ratification by the Board of Education of ImBlaze Pilot Program and Management Agreement and Ratification of Student Data Privacy Agreement between Oakland Unified School District and The Big Picture Company dba BPL for the period October 1, 2021 to August 31, 2022, for no cost.

Ask of the Board Ratification by the Board of Education of ImBlaze Pilot Program and Management Agreement and Ratification of Student Data Privacy Agreement between Oakland Unified School District and The Big Picture Company dba BPL, Providence, RI, for the latter to provide hosting, maintenance, upgrades and associated support for the ImBlaze platform, for the period October 1, 2021 to August 31, 2022, for no cost.

Background The Oakland Unified School District has enjoyed a long-standing philanthropic partnership with Salesforce, Inc. and currently uses this platform at no cost to coordinate the delivery of key student services across several areas. The District now seeks to expand its use of the Salesforce platform by entering into an agreement to pilot ImBlaze, which is a proprietary software service platform created by BPL to provide user organizations with a viable and effective method of managing educational internship programs.

Discussion ImBlaze is an add-on to the Salesforce platform that provides applications for teachers, students and internship coordinators. The software displays and intakes information to and from Salesforce to assist in managing internship programs. Use of the ImBlaze platform will enable the District to create more user-friendly listings of internship options for all OUSD students, provide schools with a high-quality tool for monitoring student internship attendance and counseling students on work-based learning opportunities, and enable central and school staff to improve partnership across schools and between the District and internship-hosting organizations and businesses. Use of the ImBlaze platform will also support reporting on district-wide grants that support work-based learning.

Imblaze has previously been piloted within the District by three schools, namely Coliseum College Prep Academy (CCPA), Street Academy, and MetWest High School, who have used it to operate academic-year internship programs. The District has also used ImBlaze to support the centrally coordinated Exploring College, Career, and Community Options (ECCCO) summer internship program since 2018. These programs have all indicated a desire to continue to use ImBlaze on a no-cost basis with an expressed need for increased customization and reporting capabilities.

The proposed agreement will allow current programs that already use ImBlaze to continue to do so and will implement the requested new reporting functions and customizations.

In order to provide these services, BPL requires access to certain District student data. Accordingly, the District and The Big Picture Company dba BPL executed the enclosed data sharing agreement on September 28, 2021, and now ask the Board to ratify this agreement. This data sharing agreement is a modified form of the standard National Student Data Privacy Agreement (NDPA) with Supplemental Student Data Privacy Consortium (SDPC) State Terms for California, adopted by the California Student Privacy Alliance to meet the requirements of the Family Educational Rights and Privacy Act (FERPA) and Assembly Bill 1584 (which allows school districts to share data with software providers so long as the contracts include certain specified provisions). The standard terms of the NDPA with Supplemental SDPC State Terms for California and the modified version set forth herein ensure that the vendor will take all precautions to safeguard our students' data. The term of the data privacy agreement is the same as the term of the underlying services contract. The data privacy agreement is a piggy-backable agreement. This means that a software vendor may enter the data privacy agreement with one school district and thereafter, by signing Exhibit E (which consists of a "general offer of terms") allow any other school district to countersign Exhibit E and be entitled to the same protections set forth in the underlying NDPA.

Here, The Big Picture Company dba BPL has signed the data privacy agreement with Oakland Unified School District, and it further signed Exhibit E, which, again, allows any other school district to likewise sign Exhibit E and share the same data with Illuminate, Inc. under the same terms.

- | | |
|--------------------------|--|
| Competitively Bid | No. Professional Services Agreement of less than \$96,700. (No-Cost Agreement) |
| Fiscal Impact | None. This is a no-cost agreement. |

Attachment(s)

- ImBlaze Pilot Program and Management Agreement
- Student Data Privacy Agreement with Exhibit E

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ImBlaze Pilot Program and Management Agreement

<u>Pilot Organization:</u>	<u>Oakland Unified School District [CA]</u>
Address:	<u>1000 Broadway, Suite 300</u> <u>Oakland, CA 94607</u>
Primary Contact:	<u>Gregory Cluster</u>
Phone:	<u>510-879-2878</u>
Email:	<u>gregory.cluster@ousd.org</u>

This ImBlaze Pilot Program and Management Agreement (the “**Agreement**”) is hereby entered into by and between **The Big Picture Company d/b/a BPL**, a non-profit corporation incorporated under the laws of Rhode Island and with an address at 325 Public Street, Providence RI 02905 (hereafter, “**BPL**”) and the party set forth above (the “**Pilot Organization**,” and collectively with BPL, the “**Parties**”), and shall be deemed effective as of the date set forth on the signature page hereof.

Overview.

ImBlaze® (hereafter, “**ImBlaze**”) is a proprietary software service platform created by BPL to provide user organizations with a viable and effective method of managing academic/educational internship programs, together with the efficient management of their related provisioning, school deployment and data hosting requirements. Designed as a private software package for installation on a user’s existing Salesforce® instance, the platform is currently in the Beta testing phase as BPL continues to develop and establish the depth of practice, implementation protocols, documentation, and support infrastructure to support the long-term sustainability of the ImBlaze platform across multiple data instances.

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The intent of this proposal is to provide a framework for our partner organizations to install and use the ImBlaze platform during and as an integral part of our Beta phase. BPL is committed to working closely with our early partners as a mutual learning experience, and with the dedicated intent of developing a viable long-term solution to our partners' organizational needs. As an early-adopter partner, our Pilot Organizations acknowledge that challenges are inevitably a part of Beta development, but with patience and mutual collaboration, we have every faith and confidence that the end result will yield a best in class internship management platform that will benefit our partner organizations for years to come.

Terms and Conditions.

1. Licensed Rights.

Expressly subject to the terms of this Agreement, BPL hereby grants to the Pilot Organization a world-wide, revocable, nonexclusive, non-transferable license to use ImBlaze for the Pilot Organization's internal business purposes. The Pilot Organization hereby agrees and acknowledges that no rights to ImBlaze or the related software are granted except as expressly and set forth herein. Without limiting the generality of the foregoing, the Pilot Organization shall not: (a) modify, create derivative works from, distribute, publicly display, publicly perform, or sub-license the software; (b) Use the Software for service bureau or time-sharing purposes or in any other way allow third parties to exploit the software; or (c) Reverse engineer, decompile, disassemble, or otherwise attempt to derive any of the ImBlaze source code.

2. Term.

Except as otherwise expressly agreed hereafter by the Parties, the term of this Agreement is from October 1, 2021 through August 31, 2022 (the "**Term**").

3. BPL Responsibilities.

- (a) Provide engineering capacity to do an initial installation of ImBlaze on the Pilot Organization's Salesforce instance.
- (b) Provide approximately 8 hours of virtual training. It is encouraged that during this time the Pilot Organization documents this training to help BPL develop System Admin Documentation.
- (c) Provide existing training resources for the Pilot Organization to adapt as needed for training their staff, educators, internship coordinators, mentors and students.
- (d) Provide 1 hour per month in virtual technical support.

4. Pilot Organization Responsibilities.

- (a) Identify and support internal Salesforce administrative expertise.

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- (b) Provide their own training on Salesforce usage as well as leverage existing Salesforce resources such as Trailhead to learn things such as object management, schema customizations, reporting, user provisioning, bulk processes, etc.
- (c) Contract directly with Salesforce for the Pilot Organization's required internal and community licenses. (The Pilot Organization acknowledges and hereby agrees that the ImBlaze platform cannot be deployed to programs without the applicable community licenses.)
- (d) Provide BPL with one System Admin level user license for the Pilot Organization's Salesforce instance. This enables BPL to better understand the private package management process, to provide assistance, and track user allocation. BPL must be able to have access to this login at all times.
- (e) During the Term, the Pilot Organization agrees to engage in one or more pilot program uses of a locally-hosted ImBlaze platform for managing the Pilot Organization's (and/or one or more Pilot Organization constituents') internship programs. Except as otherwise expressly set forth in this Agreement, the license(s) granted herein are offered by BPL at no charge to the Pilot Organization, subject to the understanding that subsequent to the Term, BPL anticipates offering the opportunity for the Pilot Organization to enter into a distributor license agreement. During the Term, the Pilot Organization may (but is under no obligation to) charge constituent users for ImBlaze usage on a sublicensed basis. However, in any event of such sublicense: i) The Pilot Organization shall ensure that each such sublicensee shall be reasonably bound by the applicable terms and conditions of this Agreement; and ii) BPL shall be entitled to a license royalty fee of Twenty Percent (15.0%) of fees earned from each such sub-licensed.
- (f) Protect BPL intellectual property. This includes not transferring ImBlaze to any 3rd party Salesforce instance, or sharing any of the code base underlying ImBlaze. BPL retains all intellectual property rights for the ImBlaze product, including ImBlaze custom objects, visualforce code, custom lightning components, workflow rules, page designs and iOS and Android apps.
- (g) If BPL chooses to sever this Agreement, BPL expressly reserves the right in its sole, exclusive discretion to delete all related IP on the Pilot Organization's salesforce instance.
- (h) The Pilot Organization recognizes that they are fully responsible for their user data. BPL is not responsible for lost or deleted data on the Pilot Organization's Salesforce instance or related platforms. BPL is also not responsible for data breaches or other security failures in the Pilot Organization's Salesforce instance.
- (i) The Pilot Organization will enable BPL to gather anonymized data to inform product development and mission impact work.

5. Additional Services.

BPL shall use best commercially reasonable efforts to offer additional professional services and support not expressly set forth in Section 3 above (collectively, the “**Additional Services**”), subject to a first come, first serve basis and BPL's reasonable capacity and schedule constraints. Except as otherwise expressly agreed by the Parties, Additional Services shall be provided at

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BPL's standard hourly service rate of \$250.00/hr. By way of example but not limitation, Additional Services may include:

- a) Any professional services support not expressly set forth in Section 4 above. This can include work supporting capacity increases at the Pilot Organization, regional advocacy work, etc.
- b) Any engineering customization needed specifically for ImBlaze in the Pilot Organization's hosted instance (such as languaging changes, process customizations, notification changes, etc.)
- c) Any additional legal or business process costs that require BPL support. This includes legal and technical support for creating Pilot Organization privacy agreements.

6. Payment Terms.

During the Term, excluding such Additional Services upon which the Parties shall agree from time to time as applicable, the Pilot Organization agrees to pay BPL \$0.

7. Representations and Warranties.

(a) General Authority. Each of the Parties hereby represents and warrants to the other that: (i) They are duly organized, validly existing and in good standing under the laws of their respective jurisdictions of formation (as applicable) and have the full power, authority, legal right and have taken all necessary action required to perform their respective obligations set forth herein; (ii) The execution and delivery of this Agreement, and the performance of and compliance with the terms hereof, will not violate any applicable organizational documents or constitute a default or breach of any material agreement or other instrument to which they are a party, and that would adversely affect their ability to carry out the transactions contemplated by this Agreement; and (iii) This Agreement constitutes a valid and legally binding obligation, enforceable against each of the Parties in accordance with its terms.

(b) Title to Licensed Software. BPL hereby represents and warrants that it owns and/or has valid licensed rights in and to ImBlaze and the related software and products contemplated therein, and further warrants that the intellectual property rights related thereto (expressly but without limitation including any applicable registered and unregistered copyright trademark and patent rights to content, source code and design) do not infringe upon the rights of any third party.

(c) Intellectual Property/Reservation of Rights. The Pilot Organization hereby acknowledges, agrees and warrants that BPL shall retain any and all rights related to the intellectual property contemplated herein, and to the extent any related works, improvements, further developments or other intellectual property related to ImBlaze and/or otherwise subject to this Agreement shall have been and/or are hereafter deemed to be developed by the Pilot Organization and/or jointly developed by the Parties, the Pilot Organization hereby

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acknowledges that any such works are and shall be developed by the Pilot Company as “works for hire” on BPL’s half, and hereby agreed that full right and title to any such works are hereby assigned in full to BPL, that the Pilot Company shall hereafter provide BPL with such assistance as may be reasonably requested by BPL to further the foregoing assignment, and that the Pilot Organization hereby irrevocably grants to BPL a limited power of attorney for the sole and express purpose of effecting any such required assignment(s) as the Pilot Organization’s attorney-in-fact.

8. Termination.

This Agreement may be terminated: (a) By either party for breach of any term of this Agreement (hereafter, “Cause”), in the terminating party’s reasonable discretion, provided that the terminating party shall first provide written notice of the alleged Cause to the other party, and if said Cause is not cured or otherwise resolved to the noticing party’s reasonable satisfaction within fifteen (15) days after receipt of such notice, the noticed termination shall be effective immediately thereafter; (b) By either party for no cause upon at least sixty (60) days’ prior written notice to the other Party; (c) By mutual written agreement, effective as of a mutually agreed upon time; or (d) By either Party upon determination that the other Party has filed or has filed against it a petition in bankruptcy or receivership which is not dismissed within thirty (30) days after it is filed. Upon any termination, Client is responsible for prompt payment to BPL for all services rendered and for reasonable expenses and non-cancellable commitments incurred in the performance of this Agreement up to and including the date of termination.

9. Warranties and Disclaimers.

OTHER THAN AS EXPRESSLY SET FORTH HEREIN, NEITHER BPL NOR ITS AGENTS OR SERVICE PROVIDERS (THE “SERVICES ENTITIES”) MAKE ANY SPECIFIC PROMISES WITH RESPECT TO THE PRODUCTS AND/OR SERVICES CONTEMPLATED BY THIS AGREEMENT, EXPRESSLY BUT WITHOUT LIMITATION INCLUDING ANY COMMITMENT REGARDING THE CONTENT, FUNCTIONALITY, RELIABILITY, AVAILABILITY, OR ABILITY TO MEET USER NEEDS. ALL PRODUCTS ARE PROVIDED SOLELY AND EXPRESSLY “AS IS”.

BPL MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PROVIDERS WITH WHICH THE PILOT ORGANIZATION OR ANY USER MAY INTERFACE WITH BPL’S PRODUCTS AND/OR SERVICES.

TO THE FULL EXTENT PERMITTED BY LAW, BPL HEREBY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, RELATED TO THE USE OF THIS SITE OR THE SERVICES, EXPRESSLY BUT WITHOUT LIMITATION INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

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10. Liability for our Services.

EXCEPT TO ANY EXTENT EXPRESSLY AGREED OTHERWISE BY BPL AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BPL (INCLUDING THE SERVICES ENTITIES) IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING FROM THE USE OF THE SERVICES OR THE PRODUCTS CONTEMPLATED HEREIN. THIS LIMITATION EXPRESSLY BUT WITHOUT LIMITATION INCLUDES LIMITATION OF LIABILITY FOR ANY DAMAGES FOR LOST WAGES OR PROFITS, LOST DATA, COMPUTER FAILURE, AND/OR ANY VIOLATION OF RIGHTS BY A THIRD PARTY.

11. Indemnification.

To the fullest extent permitted by applicable law, the Pilot Organization hereby indemnifies and holds harmless BPL and its Directors, Officers, employees, affiliates and agents from and against any and all actual or threatened claims, costs, damages and other liabilities that are suffered or incurred by the Pilot Organization (regardless of whether or not such Damages relate to any third party claim) and that arise from or as a result of, or are directly or indirectly connected with: (i) Pilot Organization's use and or licensing of ImBlaze and of the BPL products and services related thereto; and (ii) Any breach of any warranty or representation of the Pilot Organization set forth herein.

12. Modifications and Termination.

The Pilot Organization hereby agrees and acknowledges that expressly pursuant to the Beta stage development nature of our installation package process for ImBlaze and the related products and services contemplated herein, BPL expressly reserves the right to reasonably modify the terms and conditions of this Agreement at any time with the Pilot Organization's prior written consent.

13. Miscellaneous Provisions.

(a) **Fees and Expenses.** Each party shall bear and pay all fees, costs and expenses that it incurs with respect to this Agreement and the consummation of the transactions contemplated hereby.

(b) **Attorneys' Fees.** In any event that an arbitration, suit or action shall be brought by a Party under this Agreement to enforce any term hereof, or in any appeal therefrom, each of the Parties hereby expressly agree that the prevailing Party in any such action shall be entitled to reasonable attorneys' fees and costs to be fixed by the arbitrator, trial court, and/or appellate court, as applicable.

(c) **Notices.** Any notice or other communication required or permitted to be delivered to any party under this Agreement shall be in writing and shall be deemed properly delivered, given and received: (i) When delivered by hand; (ii) On the day sent by email; (iii) If sent by registered, certified or first class mail, the third business day after being sent; and (iv) If sent by overnight delivery via a national courier service, one business day after being sent, in

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each case to the address, facsimile telephone number or electronic mail address set forth beneath the name of such party as set forth in the introductory paragraphs of this agreement (or to such other address or facsimile telephone number as such party shall have specified in a written notice given to the other parties hereto). Effective notice to BPL shall include notice to Pannone Lopes Devereaux & O’Gara LLC, Attn: Kas R. DeCarvalho, Esq., 1301 Atwood Avenue, Ste. 215N, Johnston, RI 02919; (Fax) (401) 824-5123 (E): kd@PLDOLaw.com.

(d) **Counterparts and Exchanges by Facsimile or Electronic Delivery.** This Agreement may be executed in counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement. The exchange of a fully executed Agreement (in counterparts or otherwise) by fax or by electronic delivery in .pdf format shall be sufficient to bind the Parties to the terms and conditions of this Agreement.

(e) **Governing Law; Venue.** This Agreement shall be construed in accordance with, and governed in all respects by, the internal laws of the State of Rhode Island, without giving effect to principles of conflicts of laws, and the Parties hereby submit to the sole and exclusive jurisdiction and venue of any state or federal court thereof.

(f) **Assignments.** This Agreement shall not be assignable by the Pilot Organization to any third party without the prior express agreement of BPL, in BPL’s sole reasonable discretion, not unreasonably withheld, and any purported or alleged assignment without such prior agreement shall be deemed null and void *ab initio*.

(g) **Remedies Cumulative/Equal Interpretation.** The rights and remedies of the Parties hereto shall be cumulative (and not alternative). This Agreement shall be deemed to have been mutually negotiated by the Parties, and shall not be interpreted in favor of either party as drafter.

(h) **Amendments.** This Agreement may not be amended, modified, altered or supplemented other than by means of a written instrument duly executed and delivered on behalf of the Parties.

(i) **Severability.** In the event that any provision of this Agreement or the application of any such provision to any person or set of circumstances shall be determined to be invalid, unlawful, void or unenforceable to any extent, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

(j) **Entire Agreement.** This Agreement sets forth the entire understanding of the Parties relating to the subject matter thereof and supersedes all prior agreements and understandings among or between any of the parties relating to the subject matter thereof.

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ImBlaze Pilot Program and Management Agreement

-Signature Page-

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the effective date set forth below.

The Big Picture Company

M.R. Brezler

9/22/2021

By: M.R. Brezler

Its: _____

MB

[PILOT ORGANIZATION]

Oakland Unified School District [CA]

Susan Beltz

By: Susan Beltz

Its: SB

Effective Date: 9/22/2021

Approved as to form by OUSD Staff Attorney
Joanna Powell on 10/4/21.

Joanna J. Powell

Shanthy Gonzales

Shanthy Gonzales, President, Board of Education 11/18/2021

Kyla Johnson Trammell

Kyla Johnson Trammell, Secretary, Board of Education 11/18/2021

STANDARD STUDENT DATA PRIVACY AGREEMENT

**CA-NDPA Standard
Version 1.0 (10.25.20)**

Oakland Unified School District (OUSD)

and

Big Picture Learning (BPL)

May 11, 2021

This Student Data Privacy Agreement (“**DPA**”) is entered into on the date of full execution (the “**Effective Date**”) and is entered into by and between:

Oakland Unified School District , located at 1000 Broadway, #300, Oakland, CA
(the “**Local Education Agency**” or “**LEA**”) and

Big Picture Learning (BPL) , located at 325 Public Street, Providence, RI 02905
(the “**Provider**”).

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

WHEREAS, the Provider and LEA 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 LEA 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, LEA and Provider agree as follows:

1. A description of the Services to be provided, the categories of Student Data that may be provided by LEA to Provider, and other information specific to this DPA are contained in the Standard Clauses hereto.
2. **Special Provisions. Check if Required**
 - If checked, the Supplemental State Terms and attached hereto as **Exhibit “G”** are hereby incorporated by reference into this DPA in their entirety.
 - If Checked, the Provider, has signed **Exhibit “E”** to the Standard Clauses, otherwise known as General Offer of Privacy Terms
3. In the event of a conflict between the SDPC Standard Clauses, the State or Special Provisions will control. 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.
4. This DPA shall stay in effect for as long as the Provider has access to the LEA Student Data.
5. The services to be provided by Provider to LEA pursuant to this DPA are detailed in **Exhibit “A”** (the “**Services**”).
6. **Notices**. All notices or other communication required or permitted to be given hereunder may be given via e-mail transmission, or first-class mail, sent to the designated representatives below.

The designated representative for the LEA for this DPA is:

Name: Greg Cluster LEA DESIGNATED REPRESENTATIVE NAME Title: Work-Based Learning Coordinator LEA DESIGNATED REPRESENTATIVE TITLE

Address: 1000 Broadway, Suite 440, Oakland, CA 94607 LEA DESIGNATED REPRESENTATIVE ADDRESS

Phone: (510) 629-9389 LEA DESIGNATED REPRESENTATIVE PHONE NUMBER (510) 629-9389 Email: greg.cluster@ousd.org LEA DESIGNATED REPRESENTATIVE EMAIL

The designated representative for the Provider for this DPA is:

Name: M.R. Brezler Title: Chief Operating Officer

Address: 325 Public Street, Providence, RI 02905

Phone: 401- 447-5062 Email: mrbrezler@bigpicturelearning.org

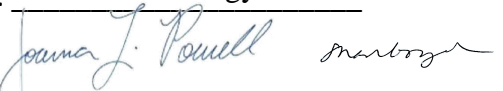
IN WITNESS WHEREOF, LEA and Provider execute this DPA as of the Effective Date.

LEA: Oakland Unified School District (OUSD)

By:  Date: 10/11/2021

Printed Name: Susan Beltz Title/Position: Chief Technology Officer


Approved as to form by OUSD Staff Attorney Joanna Powell on 5/11/2021.



Shanthi Gonzales, President, Board of Education 11/18/2021

PROVIDER: Big Picture Learning (BPL)

By: M.R. Brezler Date: 9/28/2021


Kyla Johnson Trammell, Secretary, Board of Education 11/18/2021

Printed Name: MR Brezler Title/Position: Chief Operating Officer

STANDARD CLAUSES

Version 3.0

ARTICLE I: PURPOSE AND SCOPE

- Purpose of DPA.** The purpose of this DPA is to describe the duties and responsibilities to protect Student 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 these services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the LEA. Provider shall be under the direct control and supervision of the LEA, with respect to its use of Student Data
- Student Data to Be Provided.** In order to perform the Services described above, LEA shall provide Student Data as identified in the Schedule of Data, attached hereto as **Exhibit "B"**.
- 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

- Student Data Property of LEA.** 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 LEA. 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 contemplated per the Service Agreement, shall remain the exclusive property of the LEA. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the LEA as it pertains to the use of Student Data, notwithstanding the above.
- Parent Access.** To the extent required by law the LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Education Records and/or Student 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 an LEA to respond to a parent or student, whichever is sooner) to the LEA's request for Student 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 Student Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the LEA, who will follow the necessary and proper procedures regarding the requested information.
- Separate Account.** If Student-Generated Content is stored or maintained by the Provider, Provider shall, at the request of the LEA, transfer, or provide a mechanism for the LEA 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 Student Data held by the Provider pursuant to the Services, the Provider shall notify the LEA in advance of a compelled disclosure to the Requesting Party, unless lawfully directed by the Requesting Party not to inform the LEA 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 Student Data in a manner no less stringent than the terms of this DPA.

ARTICLE III: DUTIES OF LEA

1. **Provide Data in Compliance with Applicable Laws.** LEA shall provide Student 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 LEA has a policy of disclosing Education Records and/or Student Data under FERPA (34 CFR § 99.31(a)(1)), LEA 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.** LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted Student Data.
4. **Unauthorized Access Notification.** LEA shall notify Provider promptly of any known unauthorized access. LEA 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 Student Data privacy and security, all as may be amended from time to time.
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 outlined in Exhibit A or stated in the Service Agreement and/or otherwise authorized under the statutes referred to herein this DPA.
3. **Provider Employee Obligation.** Provider shall require all of Provider’s employees and agents who have access to Student Data to comply with all applicable provisions of this DPA with respect to the Student 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 pursuant to the Service Agreement.
4. **No Disclosure.** Provider acknowledges and agrees that it shall not make any re-disclosure of any Student Data or any portion thereof, including without limitation, user content or other non-public information and/or personally identifiable information contained in the Student Data other than as directed or

permitted by the LEA or this DPA. This prohibition against disclosure shall not apply to aggregate summaries of De-Identified information, Student Data disclosed pursuant to a lawfully issued subpoena or other legal process, or to subprocessors performing services on behalf of the Provider pursuant to this DPA. Provider will not Sell Student Data to any third party.

5. **De-Identified Data**: Provider agrees not to attempt to re-identify de-identified Student Data. De-Identified Data may be used by the Provider for those purposes allowed under FERPA and the following purposes: (1) assisting the LEA 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 LEA to return or destroy Student Data. Except for Subprocessors, Provider agrees 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 the LEA who has provided prior written consent for such transfer. Prior to publishing any document that names the LEA explicitly or indirectly, the Provider shall obtain the LEA's written approval of the manner in which de-identified data is presented.
6. **Disposition of Data**. Upon written request from the LEA, Provider shall dispose of or provide a mechanism for the LEA to transfer Student Data obtained under the Service Agreement, 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 LEA is received, Provider shall dispose of all Student Data after providing the LEA with reasonable prior notice. The duty to dispose of Student Data shall not extend to Student Data that had been De-Identified or placed in a separate student account pursuant to section II 3. The LEA may employ a "Directive for Disposition of Data" form, a copy of which is attached hereto as **Exhibit "D"**. If the LEA and Provider employ Exhibit "D," no further written request or notice is required on the part of either party prior to the disposition of Student Data described in Exhibit "D".
7. **Advertising Limitations**. Provider is prohibited from using, disclosing, or selling Student 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 LEA. This section does not prohibit Provider from using Student Data (i) for adaptive learning or customized student learning (including generating personalized learning recommendations); or (ii) to make product recommendations to teachers or LEA employees; or (iii) to notify account holders about new education product updates, features, or services or from otherwise using Student Data as permitted in this DPA and its accompanying exhibits

ARTICLE V: DATA PROVISIONS

1. **Data Storage**. Where required by applicable law, Student Data shall be stored within the United States. Upon request of the LEA, Provider will provide a list of the locations where Student Data is stored.
2. **Audits**. No more than once a year, or following unauthorized access, upon receipt of a written request from the LEA with at least ten (10) business days' notice and upon the execution of an appropriate confidentiality agreement, the Provider will allow the LEA to audit the security and privacy measures that are in place to ensure protection of Student Data or any portion thereof as it pertains to the delivery of services to the LEA . The Provider will cooperate reasonably with the LEA 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 LEA, and shall provide reasonable access to the Provider's facilities, staff, agents and LEA's Student Data and all records pertaining to the Provider, LEA and delivery of Services to the LEA. 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 Student 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 nationally recognized standards set forth set forth in **Exhibit "F"**. Exclusions, variations, or exemptions to the identified Cybersecurity Framework must be detailed in an attachment to **Exhibit "H"**. Additionally, Provider may choose to further detail its security programs and measures that augment or are in addition to the Cybersecurity Framework in **Exhibit "F"**. Provider shall provide, in the Standard Schedule to the DPA, contact information of an employee who LEA may contact if there are any data security concerns or questions.
4. **Data Breach.** In the event of an unauthorized release, disclosure or acquisition of Student Data that compromises the security, confidentiality or integrity of the Student Data maintained by the Provider the Provider shall provide notification to LEA 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 reporting LEA 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
 - v. 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 Student Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
 - (3) Provider further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of Student Data or any portion thereof, including personally identifiable information and agrees to provide LEA, upon request, with a summary of said written incident response plan.

- (4) LEA shall provide notice and facts surrounding the breach to the affected students, parents or guardians.
- (5) In the event of a breach originating from LEA's use of the Service, Provider shall cooperate with LEA to the extent necessary to expeditiously secure Student Data.

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 **Exhibit "E"** to any other LEA who signs the acceptance on said Exhibit. The form is limited by the terms and conditions described therein.

ARTICLE VII: MISCELLANEOUS

1. **Termination.** In the event that either Party seeks to terminate this DPA, they may do so by mutual written consent so long as the Service Agreement has lapsed or has been terminated. Either party may terminate this DPA and any service agreement or contract if the other party breaches any terms of this DPA.
2. **Effect of Termination Survival.** If the Service Agreement is terminated, the Provider shall destroy all of LEA's Student Data pursuant to Article IV, section 6.
3. **Priority of Agreements.** This DPA shall govern the treatment of Student 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. In the event of a conflict between Exhibit H, the SDPC Standard Clauses, and/or the Supplemental State Terms, Exhibit H will control, followed by the Supplemental State Terms. Except as described in this paragraph herein, all other provisions of the Service Agreement shall remain in effect.
4. **Entire Agreement.** This DPA and the Service Agreement constitute 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.

5. **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.
6. **Governing Law; Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF THE LEA, 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 THE COUNTY OF THE LEA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS DPA OR THE TRANSACTIONS CONTEMPLATED HEREBY.
7. **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 LEA 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 Student Data within the Service Agreement. The LEA 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.
8. **Authority.** Each party represents that it is authorized to bind to the terms of this DPA, 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.
9. **Waiver.** No delay or omission by either party to exercise any right hereunder shall be construed as a waiver of any such right and both parties reserve the right to exercise any such right from time to time, as often as may be deemed expedient.

EXHIBIT "A"

DESCRIPTION OF SERVICES

Type of Product: Internship Management System

Name of Product: ImBlaze

Description of Product: Cloud based platform fo managing internship programs

EXHIBIT "B"
SCHEDULE OF DATA

* "Optional" indicates that OUSD can decide whether or not to share this 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: Student mobile location on check in/out	<input checked="" type="checkbox"/>
Application Use Statistics	Meta data on user interaction with application	<input checked="" type="checkbox"/>
Assessment	Standardized test scores	<input type="checkbox"/>
	Observation data	<input type="checkbox"/>
	Other assessment data-Please specify:	
Attendance	Student school (daily) attendance data (at internship)	<input checked="" type="checkbox"/>
	Student class attendance data	<input type="checkbox"/>
Communications	Online communications captured (emails, blog entries)	<input checked="" type="checkbox"/>
Conduct	Conduct or behavioral data	<input type="checkbox"/>
Demographics	Date of Birth *Optional	<input checked="" type="checkbox"/>
	Place of Birth	<input type="checkbox"/>
	Gender *Optional	<input checked="" type="checkbox"/>
	Ethnicity or race *Optional	<input checked="" type="checkbox"/>
	Language information (native, or primary language spoken by student)	<input type="checkbox"/>
	Other demographic information-Please specify:	
Enrollment	Student school enrollment	<input checked="" type="checkbox"/>
	Student grade level *Optional	<input checked="" type="checkbox"/>
	Homeroom	<input type="checkbox"/>
	Guidance counselor	<input type="checkbox"/>
	Specific curriculum programs	<input type="checkbox"/>
	Year of graduation *Optional	<input checked="" type="checkbox"/>
	Other enrollment information-Please specify: Advisor/Teacher and Internship Coordinator	<input checked="" type="checkbox"/>
Parent/Guardian Contact Information	Address	<input type="checkbox"/>
	Email	<input type="checkbox"/>
	Phone	<input type="checkbox"/>

Category of Data	Elements	Check if Used by Your System
Parent/Guardian ID	Parent ID number (created to link parents to students)	<input type="checkbox"/>
Parent/Guardian Name	First and/or Last	<input type="checkbox"/>
Schedule	Student scheduled courses	<input type="checkbox"/>
	Teacher names	<input checked="" type="checkbox"/>
Special Indicator	English language learner information	<input type="checkbox"/>
	Low income status	<input type="checkbox"/>
	Medical alerts/ health data	<input type="checkbox"/>
	Student disability information	<input type="checkbox"/>
	Specialized education services (IEP or 504)	<input type="checkbox"/>
	Living situations (homeless/foster care)	<input type="checkbox"/>
	Other indicator information-Please specify:	
Student Contact Information	Address	<input type="checkbox"/>
	Email	<input checked="" type="checkbox"/>
	Phone *Optional	<input checked="" type="checkbox"/>
Student Identifiers	Local (School district) ID number	<input type="checkbox"/>
	State ID number *Optional	<input checked="" 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 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 type="checkbox"/>
	Other student work data -Please specify:	
Transcript	Student course grades	<input type="checkbox"/>
	Student course data	<input type="checkbox"/>
	Student course grades/ performance scores	<input type="checkbox"/>

Category of Data	Elements	Check if Used by Your System
	Other transcript data - Please specify:	
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: internship location	✓
Other	<p>Please list each additional data element used, stored, or collected by your application:</p> <p>ImBlaze enables schools to manage student internship programs. It enables schools to curate a database of potential work-based learning opportunities and supports attendance data gathering during internship days. Students check in at the start of the day, out at the end of the day, and then mentors are asked via email to verify attendance for the day. ImBlaze operates for students as either a web based app or native iOS/Android mobile apps. Schools can customize data collection during the internship start, daily attendance process and the end of the internship.</p>	
None	No Student Data collected at this time. Provider will immediately notify LEA if this designation is no longer applicable.	<input type="checkbox"/>

EXHIBIT "C" **DEFINITIONS**

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 an LEA to provide a service to that LEA shall be considered an "operator" for the purposes of this section.

Originating LEA: An LEA who originally executes the DPA in its entirety with the Provider.

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

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 Student 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.

Student Data: Student Data includes any data, whether gathered by Provider or provided by LEA 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. Student Data includes Meta Data. Student Data further includes "personally identifiable information (PII)," as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law. Student Data shall constitute Education Records for the purposes of this DPA, and for the purposes of federal, state, and local 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 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 LEA 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 Student Data.

Subscribing LEA: An LEA that was not party to the original Service Agreement and who accepts the Provider's General Offer of Privacy Terms.

Targeted Advertising: means presenting an advertisement to a student where the selection of the advertisement is based on Student 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 Student 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

Oakland Unified School District (OUSD) Provider to dispose of data obtained by Provider pursuant to the terms of the Service Agreement between LEA 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

4. Signature

Shanthi Gonzales, President, Board of Education 11/18/2021

Kyla Johnson Trammell, Secretary, Board of Education 11/18/2021

Authorized Representative of LEA

Date

5. Verification of Disposition of Data

M.R. Breyler

Authorized Representative of Company

9/28/2021

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
Oakland Unified School District (OUSD)

("Originating LEA") which is dated _____ DATE _____, to any other LEA ("Subscribing LEA") who accepts this General Offer of Privacy Terms ("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 Subscribing LEA may also agree to change the data provided by Subscribing 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 statutes; (2) a material change in the services and products listed in the originating Service Agreement; or three (3) years after the date of Provider's signature to this Form. Subscribing LEAs should send the signed **Exhibit "E"** to Provider at the following email address:

PROVIDER EXHIBIT E NOTIFICATION EMAIL ADDRESS

PROVIDER: _____ **Big Picture Learning (BPL)** _____

BY: MR. Brezler _____ Date: 9/28/2021 _____

Printed Name: MR Brezler _____ Title/Position: Chief Operating Officer _____

2. Subscribing LEA

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 and the Provider shall therefore be bound by the same terms of this DPA for the term of the DPA between the **Oakland Unified School District (OUSD)** and the Provider. ****PRIOR TO ITS EFFECTIVENESS, SUBSCRIBING LEA MUST DELIVER NOTICE OF ACCEPTANCE TO PROVIDER PURSUANT TO ARTICLE VII, SECTION 5. ****

LEA: _____

BY: Shanthy Gonzales, President, Board of Education 11/18/2021

_____ Kyla Johnson Trammell, Secretary, Board of Education 11/18/2021 _____ Date: _____

Printed Name: _____ Title/Position: _____

SCHOOL DISTRICT NAME: _____

DESIGNATED REPRESENTATIVE OF LEA:

Name: _____

Title: _____

Address: _____

Telephone Number: _____

Email: _____

EXHIBIT "F"
DATA SECURITY REQUIREMENTS

Adequate Cybersecurity Frameworks
2/24/2020

The Education Security and Privacy Exchange (“Edspex”) works in partnership with the Student Data Privacy Consortium and industry leaders to maintain a list of known and credible cybersecurity frameworks which can protect digital learning ecosystems chosen based on a set of guiding cybersecurity principles* (“Cybersecurity Frameworks”) that may be utilized by Provider .

Cybersecurity Frameworks

	MAINTAINING ORGANIZATION/GROUP	FRAMEWORK(S)
<input type="checkbox"/>	National Institute of Standards and Technology	NIST Cybersecurity Framework Version 1.1
<input type="checkbox"/>	National Institute of Standards and Technology	NIST SP 800-53, Cybersecurity Framework for Improving Critical Infrastructure Cybersecurity (CSF), Special Publication 800-171
<input checked="" type="checkbox"/>	International Standards Organization	Information technology — Security techniques — Information security management systems (ISO 27000 series)
<input type="checkbox"/>	Secure Controls Framework Council, LLC	Security Controls Framework (SCF)
<input type="checkbox"/>	Center for Internet Security	CIS Critical Security Controls (CSC, CIS Top 20)
<input type="checkbox"/>	Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S))	Cybersecurity Maturity Model Certification (CMMC, ~FAR/DFAR)

Please visit <http://www.edspex.org> for further details about the noted frameworks.

*Cybersecurity Principles used to choose the Cybersecurity Frameworks are located here

EXHIBIT “G”

Supplemental SDPC State Terms for California

Version 1.0

This Amendment for SDPC State Terms for California (“**Amendment**”) is entered into on the date of full execution (the “**Effective Date**”) and is incorporated into and made a part of the Student Data Privacy Agreement (“**DPA**”) by and between:

Oakland Unified School District, located at 1000 Broadway, #300, Oakland, CA (the “**Local Education Agency**” or “**LEA**”) and Big Picture Learning, located at 325 Public Street, Providence, RI 02905 (the “**Provider**”).

All capitalized terms not otherwise defined herein shall have the meaning set forth in the DPA.

WHEREAS, the Provider is providing educational or digital services to LEA, which services include: (a) cloud-based services for the digital storage, management, and retrieval of pupil records; and/or (b) digital educational software that authorizes Provider to access, store, and use pupil records; and

WHEREAS, the Provider and LEA 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 C.F.R. Part 99); the Protection of Pupil Rights Amendment (“**PPRA**”) at 20 U.S.C. § 1232h; and the Children’s Online Privacy Protection Act (“**COPPA**”) at 15 U.S.C. § 6501-6506 (16 C.F.R. Part 312), accordingly, the Provider and LEA have executed the DPA, which establishes their respective obligations and duties in order to comply with such applicable laws; and

WHEREAS, the Provider will provide the services to LEA within the State of California and the Parties recognizes the need to protect personally identifiable student information and other regulated data exchanged between them as required by applicable California laws and regulations, such as the Student Online Personal Information Protection Act (“**SOPIPA**”) at California Bus. & Prof. Code § 22584; California Assembly Bill 1584 (“**AB 1584**”) at California Education Code section 49073.1; and other applicable state privacy laws and regulations; and

WHEREAS, the Provider and LEA desire to enter into this Amendment for the purpose of clarifying their respective obligations and duties in order to comply with applicable California state laws and regulations.

NOW, THEREFORE, for good and valuable consideration, LEA and Provider agree as follows:

1. **Term**. The term of this Amendment shall expire on the same date as the DPA, unless otherwise terminated by the Parties.
2. **Modification to Article IV, Section 7 of the DPA**. Article IV, Section 7 of the DPA (Advertising Limitations) is amended by deleting the stricken text as follows:

Provider is prohibited from using, disclosing, or selling Student 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 LEA. This section does not prohibit Provider from using Student Data ~~(i)~~ for adaptive learning or customized student learning (including generating personalized learning recommendations); ~~or (ii) to make product recommendations to teachers or LEA employees; or (iii) to notify account holders about new education product updates, features, or services~~ or from otherwise using Student Data as permitted in this DPA and its accompanying exhibits.

[SIGNATURES BELOW]

IN WITNESS WHEREOF, LEA and Provider execute this Amendment as of the Effective Date.

LEA: Oakland Unified School District (OUSD)

Approved as to form by OUSD Staff Attorney
Joanna Powell on 10/12/2021.




By: 


Date: 10/11/2021

Printed Name: Susan Beltz

Title/Position: Chief Technology Officer

Provider: Big Picture Learning (BPL)


Shanthi Gonzales, President, Board of Education 11/18/2021


Kyla Johnson Trammell, Secretary, Board of Education 11/18/2021

By: MR Brezler

Date: 9/28/2021

Printed Name: MR Brezler

Title/Position: Chief Operating Officer