

## **EXHIBIT “B”**

### **DeltaMath’s Data Privacy and Security Plan**

DeltaMath shall use the Data solely for the purpose of providing services as set forth in the parties’ Agreement. DeltaMath and its subcontractors shall use the Data only for educational purposes in order to provide the requested services. DeltaMath and its subcontractors will not use the Data for any other purposes. Any Data received by DeltaMath or any of its employees, subcontractors, or assignees shall not be sold or released for any commercial purposes, nor shall it be sold or used for marketing purposes. All employees, subcontractors, or assignees with access to PII will undergo training in federal privacy laws and proper handling of data before receiving access.

In the event that DeltaMath subcontracts with an outside entity or individual in order to fulfill its obligations to the District, DeltaMath ensures that it will only share the Data with such subcontractors if those subcontractors are contractually bound to observe the same obligations to maintain data privacy and security as required by DeltaMath pursuant to the Agreement. DeltaMath will maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the Data in its custody.

Upon written request by the District made before or within thirty (30) calendar days after termination of the Agreement, all Data will be disposed of in a mutually-agreeable format to the parties, and either will be: (a) delivered to the District; (b) de-identified; and/or, (c) deleted from the computer systems of DeltaMath. DeltaMath will provide written confirmation of such disposition to the District.

In the event that a parent or eligible student wishes to challenge the accuracy of the data concerning a student that is maintained by the DeltaMath or its subcontractors, such challenge may be processed through the procedures provided by the applicable educational agency/institution for amendment of education records under the Family Educational Rights and Privacy Act (FERPA). In the event that DeltaMath is notified of the outcome of any such errors made by DeltaMath, it will promptly correct any inaccurate data that it or its subcontractors or assignees maintain. The District or the applicable New York State education agency/institution will use FERPA’s data correction procedures, as applicable, to update any data that is not a result of an error made by DeltaMath or its subcontractors.

All data in DeltaMath’s possession will be securely stored in the United States. DeltaMath represents that security protections, including encryption where applicable, will be in place to ensure that the data is protected. DeltaMath uses SSL / TLS encryption for data in motion. All student PII is also encrypted at rest and at the application level so that it can only be decrypted by authorized accounts (administrators or the students’ teacher, or the student themselves). Only DeltaMath employees with a legitimate educational interest have access to student data.

## **D. PARENTS' BILL OF RIGHTS AND SUPPLEMENTAL INFORMATION**

### **1. Parents' Bill of Rights**

Vendor acknowledges and agrees that the District's Parents' Bill of Rights as set forth herein and as posted on the District's website is incorporated into these Terms and Conditions.

## **EDUCATION LAW § 2-D BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY**

Parents (includes legal guardians or persons in parental relationships) and Eligible Students (students 18 years and older) can expect the following:

1. A student's personally identifiable information (PII) cannot be sold or released for any commercial purpose. PII, as defined by Education Law § 2-d and FERPA, includes direct identifiers such as a student's name or identification number, parent's name, or address; and indirect identifiers such as a student's date of birth, which when linked to or combined with other information can be used to distinguish or trace a student's identity. Please see FERPA's regulations at 34 CFR 99.3 for a more complete definition.
2. The right to inspect and review the complete contents of the student's education record stored or maintained by an educational agency. This right may not apply to parents of an Eligible Student.
3. State and federal laws such as Education Law § 2-d; the Commissioner of Education's Regulations at 8 NYCRR Part 121, the Family Educational Rights and Privacy Act ("FERPA") at 12 U.S.C. 1232g (34 CFR Part 99); Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. 6501-6502 (16 CFR Part 312); Protection of Pupil Rights Amendment ("PPRA") at 20 U.S.C. 1232h (34 CFR Part 98); the Individuals with Disabilities Education Act ("IDEA") at 20 U.S.C. 1400 et seq. (34 CFR Part 300); protect the confidentiality of a student's identifiable information.
4. Safeguards associated with industry standards and best practices including but not limited to encryption, firewalls and password protection must be in place when student PII is stored or transferred.
5. A complete list of all student data elements collected by NYSED is available at [www.nysed.gov/data-privacy-security](http://www.nysed.gov/data-privacy-security), and by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.
6. The right to have complaints about possible breaches and unauthorized disclosures of PII

addressed. Complaints may be submitted to NYSED at [www.nysed.gov/data-privacy-security](http://www.nysed.gov/data-privacy-security); by mail to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234; by email to [privacy@nysed.gov](mailto:privacy@nysed.gov); or by telephone at 518-474- 0937.

7. To be notified in accordance with applicable laws and regulations if a breach or unauthorized release of PII occurs.

8. Educational agency workers that handle PII will receive training on applicable state and federal laws, policies, and safeguards associated with industry standards and best practices that protect PII.

9. Educational agency contracts with vendors that receive PII will address statutory and regulatory data privacy and security requirements.

## 2. Supplemental Information

i. The exclusive purpose for which Protected Data will be used is DeltaMath website and online services for students and staff. Vendor will not use the Protected Data for any other purposes not explicitly authorized herein or within the Master Agreement.

ii. In the event that Vendor engages subcontractors or other authorized persons or entities (“Subcontractors”) to perform one or more of its obligations under the Master Agreement (including hosting of the Protected Data), Vendor will require Subcontractors to execute legally binding agreements acknowledging and agreeing to comply with all applicable data protection, privacy and security requirements required of Vendor under the Master Agreement, these Terms and Conditions, and applicable state and federal law and regulations.

iii. The Master Agreement commences on 09/06/2022 and expires on 09/06/2025. Upon expiration of the Master Agreement without renewal, or upon termination of the Master Agreement prior to its expiration, Vendor will (select all that apply):

Securely delete or otherwise destroy all Protected Data remaining in the possession of Vendor or any of its Subcontractors.

Assist the District in exporting and returning all Protected Data previously received to the District in such formats as may be requested by the District.

Contact the District to request instruction for the deletion or return of all Protected Data.

In the event the Master Agreement is assigned to a successor Vendor (to the extent authorized by the Master Agreement), the Vendor will cooperate with

the District as necessary to transition Protected Data to the successor Vendor prior to deletion.

Neither Vendor nor any Subcontractors will retain any Protected Data, copies, summaries or extracts of the Protected Data, or any de-identified Protected Data, on any storage medium whatsoever. Upon request, Vendor and/or Subcontractors will provide the District with a certification from an appropriate officer that these requirements have been satisfied in full.

iv. Parents or eligible students can challenge the accuracy of any Protected Data in accordance with the District's procedures for requesting amendment of education records under the Family Educational Rights and Privacy Act (FERPA). Teachers or principals may request to challenge the accuracy of APPR data provided to Vendor by following the appeal process in the District's applicable APPR Plan.

v. Any Protected Data will be stored on systems maintained by Vendor, or Subcontractor(s) under the direct control of Vendor, in a secure data center facility. The measures that Vendor (and, if applicable, Subcontractor(s)) will take to protect Protected Data include adoption of technologies, safeguards and practices that align with the U.S. Department of Commerce National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity, "NIST Cybersecurity Framework" (Version 1.1) and safeguards associated with industry standards and best practices including, but not limited to, disk encryption, file encryption, firewalls, and password protection.

vi. Vendor (and, if applicable, Subcontractor(s)) will use encryption to protect Protected Data in its custody while in motion and while at rest, using a technology or methodology specified or permitted by the Secretary of the U.S. Department of Health and Human Services in guidance issued under Section 13402(H)(2) of Public Law 111-5.

### 3. Posting

In accordance with Section 2-d, the District will publish the Parents' Bill of Rights and Supplemental Information from these Terms and Conditions on its website. The District may redact the Parents' Bill of Rights and Supplemental Information to the extent necessary to safeguard the privacy and/or security of the District's data and/or technology infrastructure.

**IN WITNESS WHEREOF**, the Parties have indicated their acceptance of these Terms and Conditions including the Parents' Bill of Rights and Supplemental Information by their signatures below on the dates indicated.

**BY THE VENDOR:** DeltaMath

Taylor Hersom

**Name (Print)**

*Taylor Hersom*

**Signature**

CISO

**Title**

09/06/2022

**Date**

**BY THE DISTRICT:**

*Brian Zolnowski*

**Name (Print)**

*Brian Zolnowski*

**Signature**

*Data Protection Officer*

**Title**

*9/27/2022*

**Date**

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