

REGISTRATION AGREEMENT

This **REGISTRATION AGREEMENT** ("Agreement") is made as of **September 26, 2016** (the "Effective Date"), by and between **TURNITIN, LLC**, a California limited liability company ("Turnitin" or "Contractor") and **ADAMS 12 FIVE STAR SCHOOLS** ("Institution", "Customer" or "District").

In the event of any conflict between the terms and conditions of this Agreement (including Exhibits A1 and A2 hereto) and the terms and conditions of Exhibit B, Supplemental Provisions, the terms and conditions of this Agreement (including Exhibits A1 and A2 hereto) shall govern.

1. OVERVIEW. Turnitin has developed and operates a unique service that allows educational institutions to check student work for possible textual matches against Internet-available resources and its own proprietary database (the "Service"). Institution desires to protect and promote academic integrity in its curriculum and students and wishes to subscribe to the Service as a tool for detecting and preventing plagiarism.

2. SERVICES LICENSE GRANT. During the Term and subject to Institution's compliance with the terms and conditions of this Agreement, Turnitin hereby grants to Institution a non-transferable, non-exclusive license to use the Service. This license shall extend to instructors employed by the Institution ("Instructors"), but only for their use in classes offered through Institution and provided that Instructors shall be subject to the terms and conditions of this Agreement and shall be bound by its provisions as members of Institution. Institution shall be responsible for ensuring their Instructors comply with the terms of this Agreement. No other license is granted by implication, estoppel or otherwise.

3. USE OF SERVICE. With respect to use of the Service, Institution shall:

- a. abide by the Acceptable Use Policy set forth in the Usage Policy for the Turnitin.com site, incorporated herein by this reference, as may be revised by Turnitin from time-to-time. Any such revisions to the Acceptable Use Policy will be posted on the Turnitin.com site. Continued use of the Service shall constitute Institution's and its Instructors' acceptance of future revisions to the policy. (Note: In the event of conflict between this Registration Agreement and the Acceptable Use Policy set forth in the Usage Policy, this Registration Agreement shall govern.);
- b. use the Service only in connection with classes offered in its own curriculum, to its own students ("Students") for the purpose of submitting Student work for evaluation and shall not rent, lease or provide access to or benefits from the Service to any other institution or individual;
- c. use reasonable efforts to retain the confidentiality of any Service passwords;
- d. not make statements to Students that Institution is using the Service in a given class when such class is not registered (Note: even within a particular class using the Service, for purposes of fairness and equal application, Turnitin strongly recommends requiring Student submission of all papers rather than submission by Instructors only of papers singled out by Instructor);
- e. consider Turnitin's strong recommendation that the course syllabus of each course making use of the Service carry a notice substantially to the effect of the following: "Students agree that by taking this course all required papers may be subject to submission for textual similarity review to Turnitin.com for the detection of plagiarism. All submitted papers will be included as source documents in the Turnitin.com reference database solely for the purpose of detecting plagiarism of such papers. Use of the Turnitin.com service is subject to the Usage Policy posted on the Turnitin.com site." If use of the Service is instituted after distribution of the syllabus, then Institution shall consider Turnitin's strong recommendation that equivalent written notice is provided by the Instructor to the Students;
- f. consider Turnitin's strong recommendation that students enrolling at Institution receive clear notice similar to paragraph 3(e) above in their student handbook or comparable communication at the time of enrollment; and, Turnitin may, in its sole discretion, suspend Institutions or any of its Instructor's or Student's access to the Service to (i) prevent damages to, or degradation of, the Service; (ii) comply with any law, regulation, court order, or other governmental request; (iii) otherwise protect Turnitin from potential legal liability; or (iv) address a breach of the Acceptable Use Policy set forth in the Usage Policy for the Turnitin.com site. Turnitin shall use reasonable efforts to provide Institution with notice prior to or promptly following any suspension of the Service. Turnitin shall restore access to the Service as soon as the event giving rise to suspension has been resolved.

4. SIMILARITY REPORTS AND SOURCE DATABASE. With respect to reports evaluating textual sources ("Similarity Reports") and the database of source documents ("Source Database"), Institution agrees:

- a. to maintain any Turnitin's notices (including legal notices relating to Turnitin's proprietary rights (e.g., copyright and trademark notices) and disclaimer on the Similarity Reports;
- b. to exercise its independent professional judgment in, and to assume sole and exclusive responsibility for, determining the actual existence of plagiarism in a submitted paper under the acknowledgement and understanding that the Similarity Reports are only tools for detecting textual similarities between compared works and do not determine conclusively the existence of plagiarism;
- c. any disclosure of an Similarity Report to any third party is at the Institution's own risk; and,
- d. all papers submitted by Institution and/or its Instructors and Students shall be retained in the Source Database solely for the purposes of using such papers as source material to detect potential plagiarism of such papers in the future, for access by the instructor as an archive of submitted work, and for peer review if the instructor enables such option, except as expressly authorized by Students and/or Instructors.

5. TURNITIN OBLIGATIONS. Turnitin agrees to:

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- a. enable Instructors and/or account administrators to create Instructor accounts and enable Students to create Student accounts in the Service, subject to their agreement to be bound by and adherence to, as applicable, this Agreement, and the Usage Policy on the Turnitin.com Site;
 - b. create a Similarity Report for each submitted paper and to use reasonable efforts to make such Similarity Report available online for a period of one hundred and eighty (180) days after the set archive date for a class, with subsequent access, as available, to be provided via request to www.turnitin.com/help;
 - c. use reasonable efforts to protect the security of accounts, passwords and the Source Database;
 - d. comply with the then current Privacy Policy posted on the Turnitin site, incorporated herein by this reference.
- 6. OWNERSHIP.** As between the parties, subject to the licenses granted herein and the underlying ownership rights of Students in and to the submitted papers, Turnitin owns all rights in and to the Service and all materials created by the Service, including the format of Similarity Reports, and all intellectual property rights related thereto. With the exception of the limited license granted in Section 2, nothing contained herein shall be construed as granting Institution, Instructors, or Students any right, title, or interest in Turnitin's intellectual property or proprietary information. All rights in such items are expressly reserved to Turnitin.
- 7. PRICING AND PAYMENT.** Pricing shall be per Turnitin's Service Pricing Agreement ("SPA"), incorporated herein as Exhibit A. The SPA shall also include the maximum usage of the Service permitted to Institution and Institution agrees not to exceed such usage without purchasing additional usage as per the SPA. All payments are due net thirty (30) days from the date of invoice. Payments are deemed late thereafter and shall accrue interest at the lesser of 1.5% per month or the maximum rate and net period allowable by Colorado law.
- 8. SUPPORT.** Turnitin shall provide reasonable email and phone support to Institution via Institution's sole appointed primary account administrator during Turnitin's normal support hours, with any additional support provided according to the terms of an Additional Support Agreement to be entered into by the parties.
- 9. TERM AND TERMINATION.**
- a. **Term.** The term ("Term") of this Agreement shall consist of an initial Term and any renewal Terms. The initial Term of this Agreement shall commence on the date set forth in the SPA and extend for a period of one (1) year or for the period of time specified in the SPA. Thereafter, the Agreement may be renewed on the mutual agreement of the parties for additional one (1) year renewal Terms. Prior to expiration of a pending Term, Institution's Administrator will be presented with reminders when logging onto the Service regarding the need for renewal. The pricing for such renewal, and any new terms and conditions applicable to the renewal Term will be subject to the mutual agreement of the parties.
 - b. **Termination for Breach.** In the event of a material breach of this Agreement, the non-breaching party may provide the other party written notice of such breach and such other party shall have a period of thirty (30) days in which to cure the breach, except in the case of a payment breach, in which case the cure period shall be five (5) business days. In the event the breaching party fails to cure the breach within the cure period, in addition to whatever other remedies may be available at law or equity, the non-breaching party shall have the right to terminate this Agreement upon providing the other party written notice of termination.
 - c. **Survival.** Sections 3(d), 4, 5(c)-(d), 6, and 9-13 shall survive any expiration or termination of this Agreement, regardless of the reason for such termination, and shall continue in full force and effect thereafter.
- 10. AVAILABILITY.** Turnitin shall use commercially reasonable efforts to make the Service available for access over the Internet at least 98% of the time during each month of the Term, except for scheduled maintenance and repairs, failures related to Institution's systems and Internet access, and any interruption in the Service due to causes beyond the control of Turnitin or that are not reasonably foreseeable by Turnitin, including, without limitation: loss or theft of data; interruption or failure of telecommunication or digital transmission links; Internet slow-downs or failure; failures or default of third party software, vendors, or products; and communications, network/internet connection, or utility interruption or failure. In the event Turnitin fails to achieve the foregoing availability requirement, Turnitin shall use commercially reasonable efforts to correct such loss or interruption as quickly as practicable.
- 11. WARRANTY AND DISCLAIMER; LIMITATION OF LIABILITY AND LIABILITY CAP**
- a. **Warranty.** Turnitin warrants that to the best of its knowledge, the Service (excluding any Institution, Instructor, Student, or other third party content) does not infringe the intellectual property rights of any third party. During the Term, Turnitin warrants that it shall use reasonable efforts to provide the Service and support as set forth herein and as described on Turnitin's site and published documentation. Notwithstanding the foregoing, Institution acknowledges that the Service is limited in scope by a finite database of material with which to compare a submitted work, a search process that might not have indexed the material that was used to create the submitted work, and non-access to certain proprietary databases of written work. Institution also acknowledges that Reports indicate the possibility of textual matches only and that the actual determination of plagiarism is a matter subject to the professional judgment of Institution acting alone.
 - b. **Warranty Disclaimer.** EXCEPT AS SET FORTH IN SECTION 11(a) ABOVE, THE SERVICE (INCLUDING THE SIMILARITY REPORTS) IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TURNITIN SPECIFICALLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, QUALITY OF INFORMATION, NON-INFRINGEMENT AND TITLE. NO WARRANTY IS MADE THAT THE SERVICE WILL BE TIMELY, SECURE OR ERROR-FREE. IN JURISDICTIONS NOT ALLOWING THE LIMITATION OR EXCLUSION OF

CERTAIN WARRANTIES, TURNITIN'S WARRANTY SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY COLORADO LAW.

THE SERVICE IS ACCESSED AND USED OVER THE INTERNET. INSTITUTION ACKNOWLEDGES AND AGREES THAT TURNITIN DOES NOT OPERATE OR CONTROL THE INTERNET AND THAT: (I) VIRUSES, WORMS, TROJAN HORSES, OR OTHER UNDESIRABLE DATA OR SOFTWARE; OR (II) UNAUTHORIZED USERS (e.g., HACKERS) MAY ATTEMPT TO OBTAIN ACCESS TO AND DAMAGE INSTITUTION'S DATA, COMPUTERS, OR NETWORKS. TURNITIN SHALL NOT BE RESPONSIBLE FOR SUCH ACTIVITIES.

- c. **Limitation of Liability.** REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, TO THE EXTENT ALLOWED BY COLORADO STATE LAW, INSTITUTION AGREES THAT IN NO EVENT WILL TURNITIN OR ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS OR LICENSORS, BE LIABLE FOR: (I) ANY DECISION MADE OR ACTION TAKEN OR NOT TAKEN IN RELIANCE UPON THE INFORMATION PROVIDED THROUGH THE SERVICE; (II) FOR ANY LIABILITY ARISING FROM INSTITUTION'S DISCLOSURE OF A SIMILARITY REPORT TO ANY THIRD PARTY, OR (III) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUES AND LOSS OF PROFITS, EVEN IF TURNITIN HAS BEEN ADVISED AS TO THE POSSIBILITY OF SUCH DAMAGES.
- d. **Liability Cap.** TO THE EXTENT ALLOWED BY COLORADO STATE LAW, TURNITIN AND ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS OR LICENSORS' TOTAL CUMULATIVE LIABILITY ARISING UNDER OR RELATED TO THIS AGREEMENT AND THE SERVICE, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNTS PAID TO TURNITIN BY INSTITUTION UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVEN RISE TO LIABILITY. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES; IN THOSE JURISDICTIONS TURNITIN'S LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. THE LIMITATION OF LIABILITY AND LIABILITY CAP SHALL APPLY EVEN IF THE EXPRESS WARRANTIES SET FORTH ABOVE FAIL OF THEIR ESSENTIAL PURPOSE.
- e. **Third-Party Products.** In connection with the Service, Turnitin may make available to user, or Customer may separately license certain third party products (collectively, the "Third Party Products"). Except as otherwise provided in the third party licensor's license agreement, if any, accompanying the Third Party Products, Customer shall have a limited, non-transferable (except to a successor entity), non-exclusive license to use the Third Party Products solely in connection with the Services. EXCEPT AS OTHERWISE PROVIDED IN THE THIRD PARTY LICENSOR'S LICENSE AGREEMENT, IF ANY, ACCOMPANYING THE THIRD PARTY PRODUCTS, THE THIRD PARTY PRODUCTS ARE PROVIDED "AS-IS," WITHOUT WARRANTIES OF ANY KIND AND TURNITIN AND THE THIRD PARTY LICENSOR DISCLAIM ALL WARRANTIES WITH RESPECT TO THE THIRD PARTY PRODUCTS, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL TURNITIN OR THE THIRD PARTY LICENSOR BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE THIRD PARTY PRODUCTS, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES.

12. This Section is intentionally left blank.

13. GOVERNING LAW AND DISPUTE RESOLUTION. This Agreement shall be governed by the laws of the United States of America and the State of Colorado excluding its conflict of laws rules. The parties hereby consent to the exclusive personal jurisdiction of and venue in the federal or state courts located in Colorado.

14. OTHER PROVISIONS. If subscription to the Service is via an individual department, all provisions applying to an Institution herein shall be deemed to apply to the department. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes and replaces any and all prior or contemporaneous written or oral agreements. Except as provided herein, all amendments or modifications to this Agreement must be by actual hardcopy execution by an authorized signatory of each party. A party's failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. If any provision of this Agreement is held to be invalid or unenforceable, such determination shall not affect the balance of the Agreement, which shall remain in full force and effect and the offending provision shall be modified to the minimum extent required to render the provision enforceable. Institution may not assign or transfer this Agreement. Turnitin may assign this Agreement in the event of acquisition, merger, corporate reorganization or similar change of control event. Turnitin may use and reference Institution's name as a subscriber to the Service in connection with truthful advertising or promotion of the Service. There are no third party beneficiaries of this Agreement.

ACKNOWLEDGED AND AGREED, as of the Effective Date:

TURNITIN, LLC

By: _____

Date: _____

Print Name: _____

Print Title: _____

2101 Webster Street, Suite 1800, Oakland CA 94612

ADAMS 12 FIVE STAR SCHOOLS

By: Cindy Driver

Date: 9-26-16

Print Name: Cindy Driver

Print Title: Buyer

Address: 1500 E 128th Ave.
Thornton, CO 80241

EXHIBIT A1

SERVICES PRICING AGREEMENT

This Services Pricing Agreement ("SPA") is Exhibit A1 of the Registration Agreement entered into between Turnitin and Adams 12 Five Star Schools as of the Effective Date.

PRICING: Institution shall pay a Service fee ("Fee") in the total amount of \$ 5,795.00 US**, for a Turnitin Feedback Studio License (including Similarity Check, Online Grading and Peer Review) for up to 2,000 Students at Mountain Range High School for the Term. The Service shall include unlimited submissions of papers, unlimited classes and unlimited Similarity Reports for the Term. If indicated below, the Fee also includes Training fees as applicable.

Payment is due net thirty (30) days from the date of invoice. Payments are deemed late thereafter and shall accrue interest at the lesser of 1.5% per month or the maximum rate and net period allowable by Colorado law.

** IMPORTANT TAX INFORMATION: Products sold to certain states are subject to tax. Estimated Tax above (if any) is not final. Invoice will reflect Applicable Tax (state and local). No sales tax is charged when provided a valid exemption certificate. If you have a valid tax exemption certificate, please email it to: ar@turnitin.com

TERM: Twelve (12) months commencing on the Activation Date, which is defined as the date as confirmed via the applicable Turnitin invoice. (For planning purposes, the estimated Activation Date is September 15, 2016.)

OPTIONAL SERVICES: As may be completed below, Institution orders the following Training, which shall be governed by the terms and conditions as forth in http://turnitin.com/en_us/turnitin-training-terms-and-conditions, and this SPA: N/A

- In-Person Training [type].
- Online Training [type].

ACKNOWLEDGED AND AGREED, as of _____, 2016:

TURNITIN, LLC

ADAMS 12 FIVE STAR SCHOOLS

By: _____

By: Cindy Driver

Date: _____

Date: 9-26-16

Print Name: _____

Print Name: Cindy Driver

Print Title: _____

Print Title: Buyer

2101 Webster Street, Suite 1800
Oakland CA 94612

Billing Address: 1500 E 128th Ave

Thornton CO 80241

Billing Email Address: Same

EXHIBIT A2

SERVICES PRICING AGREEMENT

This Services Pricing Agreement ("SPA") is Exhibit A2 of the Registration Agreement entered into between Turnitin and Adams 12 Five Star Schools as of the Effective Date.

PRICING: Institution shall pay a Service fee ("Fee") in the total amount of \$ 4,159.93 US**, for a Turnitin Institutional License (including OriginalityCheck, GradeMark and PeerMark) for up to 1,769 Students at Thornton High School for the Term. The Service shall include unlimited submissions of papers, unlimited classes and unlimited Originality Reports for the Term. If indicated below, the Fee also includes Training fees as applicable.

Payment is due net thirty (30) days from the date of invoice. Payments are deemed late thereafter and shall accrue interest at the lesser of 1.5% per month or the maximum rate and net period allowable by Colorado law.

** IMPORTANT TAX INFORMATION: Products sold to certain states are subject to tax. Estimated Tax above (if any) is not final. Invoice will reflect Applicable Tax (state and local). No sales tax is charged when provided a valid exemption certificate. If you have a valid tax exemption certificate, please email it to: ar@turnitin.com

TERM: The Term is twelve (12) months from September 18, 2016 through September 17, 2017.)

OPTIONAL SERVICES: As may be completed below, Institution orders the following Training, which shall be governed by the terms and conditions as forth in http://turnitin.com/en_us/turnitin-training-terms-and-conditions, and this SPA: N/A

- In-Person Training [type].
Online Training [type].

ACKNOWLEDGED AND AGREED, as of _____, 2016:

TURNITIN, LLC

ADAMS 12 FIVE STAR SCHOOLS

By: _____

By: Cindy Driver

Date: _____

Date: 9-26-16

Print Name: _____

Print Name: Cindy Driver

Print Title: _____

Print Title: Buyer

2101 Webster Street, Suite 1800
Oakland CA 94612

Billing Address: 1500 E 128th Ave
Thornton CO 80241

Billing Email Address: _____

Cindy.a.driver@adams12.org

EXHIBIT B

SUPPLEMENTAL PROVISIONS

These **Supplemental Provisions** ("Supplemental Provisions" or "Exhibit B") represent Exhibit B of the Registration Agreement between **Turnitin** and **Adams 12 Five Star Schools** and is made as of the Effective Date. This Exhibit B consists of 2 parts, PART 1 and PART 2, as set forth below.

PART 1 – General Provisions

WHEREAS, Adams 12 Five Star Schools in the County of Adams and State of Colorado (the "**District**") has the statutory authority to contract with persons, firms, consultants, and/or entities for the provision of services to the District; and WHEREAS, the District has determined that a need exists to retain a contractor to provide the service hereinafter specified; and

WHEREAS, Turnitin, LLC (the "**Contractor**") is qualified to provide the services required by the District; and

WHEREAS, the District maintains certain confidential information including trade secrets, student records, and all other information not clearly known to the public and/or confidential pursuant to law. The District's trade secrets and other proprietary and confidential information includes the whole or any portion or phase of any of the following: student records, employee records, scientific or technical information, designs, processes, procedures, improvements, confidential business or financial information, other information relating to any of the District's business bids, techniques, operations, services, contracts, forms, and all other trade secret information not clearly known to the public ("**Confidential Information**"). Due to the value of the District's Confidential Information and the consequences if it is disclosed, taken or misused for any reason, the District seeks by the Agreement to protect the District's Confidential Information and any other confidential information the Contractor acquires as a result of the Contractor's provision of services to the District. The Contractor recognizes and respects the value of the District's Confidential Information. NOW, THEREFORE, the desire to enter into the Agreement subject to the following terms and conditions:

1. **Scope of Services.** The Contractor shall perform the Services as set forth in Exhibits A1 and A2. The Contractor will provide the services consistent with generally accepted industry standards for the Contractor's customary services. On the effective date of the Agreement, and during the term of the Agreement, the Contractor will be fully qualified and will have all licenses, permits, certificates, registrations, and approvals needed to perform its obligations under the Agreement.
2. **Schedule.** The District and the Contractor agree that the services shall be provided as set forth in the Agreement, including Exhibits A1 and A2, or as may be agreed to in writing by the parties after the mutual execution of the Agreement via an appropriate amendment(s)
3. **Term.** The provision of services under the Agreement shall commence and terminate as set forth in Exhibits A1 and A2, respectively however, under no circumstances will the Term exceed one (1) fiscal year from the commencement date. The Contractor understands and agrees that the District has no obligation to extend the Agreement's term, or contract for the provision of any future services, and makes no warranties or representations otherwise.
4. **Remuneration.** The Contractor's fee the District is obligated to pay for the services rendered under the Agreement as set forth in Exhibits A1 and A2. The District shall process the Contractor's payment within thirty (30) days from the receipt of a valid invoice to the District's Accounts Payable office. Such invoice shall be submitted to the site administrator to be forwarded to Accounts Payable with the Voucher Request, the P.E.R.A. Retiree form and the Contractor's W-9 form.
5. **Invoicing Requirements.** The Contractor shall furnish the following information within invoices that are submitted for request for payment to the District:
 - a. Dates of which services were rendered
 - b. Detailed description of the services or activities performed
 - c. Bill rate or compensation for the services rendered
 - d. All 'Other Direct Expenditures' shall include-vendor name, expense type, expense description, and date of expense. (The District uses the prescribed Federal guidelines for travel reimbursement. For further information, please go to the District website and see Superintendent Policy 4150 for guidelines on accepted daily rates.)
6. **Independent Contractor.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the District. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the District and the District shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits shall be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to the Agreement. The parties agree that the District will not:
 - a. Require the Contractor to work exclusively for the District; and
 - b. Establish a quality standard for the Contractor, or oversee the actual work or instruct the Contractor as to how the work is to be performed, except the Parties agree as stated in Paragraph 1 that the Contractor's services will be consistent with generally accepted industry standards for the Contractor's customary services and products; and
 - c. Pay the Contractor a salary or hourly wage, but rather will pay only the compensation stated in Paragraph 4; and

- d. Terminate the Contractor's current services for particular work the Contractor accepts from the District unless the Contractor violates the terms of the Agreement or fails to produce a result that meets the specifications of the Agreement; and
- e. Provide more than minimal training for the Contractor; and
- f. Provide tools or benefits to the Contractor; and
- g. Dictate the time of performance, except that a completion schedule and a range of mutually agreeable work hours may be established through a written agreement mutually acceptable to both Parties for particular work the Contractor accepts from the District; and
- h. Pay the Contractor individually if the Contractor is an individual; instead, the District will make all compensation checks payable to the trade or business name under which the Contractor does business; or
- i. Combine its business operations in any way with the Contractor's business, but instead both Parties will maintain their own operations as separate and distinct.

7. No Agency Created. The Contractor agrees and understands that no authority exists through the Agreement permitting the Contractor to enter into any third party contract, assume any obligation, or makes any representation to third parties on behalf of, or which may bind the District.

8. Conflict of Interest. The signatories agree that to their knowledge, no employee of the District has any personal or beneficial interest whatsoever in the service or property described in the Agreement. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

9. No Unauthorized Use of Names. Neither party will use the other's name in any advertisement, promotion, business card, or similar circumstance. without the other party's prior written consent.

10. Assignment. (Please see Section 13 of the Agreement as it relates to assignment provisions.)

11. Compliance with Law and District Policies. Contractor shall strictly comply with all applicable federal and state laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices. Contractor shall also comply with all applicable District policies. Contractor shall complete a criminal background check on all employees who work under the Agreement and maintain records of such during the term of the Agreement. Those employees who have been convicted of, pled no contest to, or received a deferred sentence or deferred prosecution for any crime involving a child will not be allowed to work on District property, with District staff or students, or have access to District information. Contractor will be responsible for following all applicable federal, state, and local privacy and confidentiality requirements in performing background checks.

12. Modification/Entire Agreement/No Prior Agreement. The Agreement constitutes the entire understanding between the parties hereto and may not be modified and/or amended unless any such modification or amendment is reduced to writing and signed by both parties. The Contractor further understands and agrees that the Agreement supersedes any prior written or verbal agreement, promise, representation, understanding, or course of conduct between the parties.

13. Termination/Revocation. Either party may revoke or otherwise terminate the Agreement, with or without cause, by notifying the other party in writing of its intention to take such action. Any such writing shall be sent to the other party by certified mail, return receipt requested, and shall be effective thirty (30) days after the date of mailing. In the event of termination, the District shall be obligated to pay the Contractor only for services rendered up to the effective date of termination. The District's obligations under the Agreement shall automatically terminate in the event of the insolvency, receivership, bankruptcy filing, or dissolution of Contractor. In addition, the District may terminate the Agreement immediately without prior notice if the Contractor commits an act of fraud, dishonesty, or any other act of negligent, reckless or willful misconduct in providing services to the District, or if any contract by the District with any third party on which the Agreement substantially depends is terminated or the District is unable for any other reason to provide services for to the party/parties to that contract. In no termination event shall the District be owed a refund of prepaid fees.

14. Fund Availability. Financial obligations of the District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. In no such termination event shall the District be owed a refund of prepaid fees.

15. Indemnification. (Please see Section 12 of the Agreement as it relates to indemnification provisions.)

16. Governing Law. Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of the Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations or which purports to negate this or any other provision of the Agreement in whole or in part shall be null and void.

17. Severability. If it is found by a court of competent jurisdiction or by operation of law that a term or provision of the Agreement is invalid or unenforceable, the remainder of the Agreement shall be unimpaired and continue in force and effect, and the invalid or unenforceable term or provision shall be replaced by such valid term or provision as comes closest to the intention underlying the invalid or unenforceable term or provision.

18. Governmental Immunity. No term or condition of the Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

19. Binding Arbitration Prohibited. The District does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in the Agreement or incorporated herein by reference shall be null and void.

20. Insurance. The District will not include the Contractor as an insured under any policy the District has for itself, including, without limitation, any liability, life, collision, comprehensive, health, medical, workers' compensation or unemployment compensation insurance policy. The Contractor shall provide the insurance as the service requires and no later than seven days after execution of the Agreement, the Contractor shall provide the District with certificates of insurance evidencing each of the types and amounts specified below:

- a. Standard Workers' Compensation coverage as required by Colorado law.
- b. Comprehensive General Liability Insurance for operations and contractual liability adequate to cover the liability assumed hereunder and with limits of not less than \$1,000,000 for each occurrence and \$500,000 for bodily injury or property damage, and \$5,000 for medical expenses for any one person.
- c. Automobile Liability Insurance in those instances where the Contractor uses an automobile, regardless of ownership, for the performance of Services.

Insurance coverage shall not be reduced below the limits described above or canceled without the District's written approval of such reduction or cancellation. The Contractor shall require that any of its agents and subcontractors who enter upon the District's premises shall maintain like insurance. Certificates of such insurance shall be provided to the District upon request. With regard to all insurance, such insurance shall (i) be primary insurance to the full limits of liability herein before stated; and (ii) should the District have other valid insurance covering the loss, the District insurance shall be excess insurance only; and (iii) not be canceled without thirty (30) days prior written notice to the District; and (iv) the District shall be named as an additional insured.

21. No Waiver. No assent, expressed or implied, by the District to any breach of any obligation or covenant by the Contractor shall be construed as a waiver of any subsequent or other breach by the Contractor. Notwithstanding any other provision of the Agreement to the contrary, no term or condition of the Agreement shall be construed or interpreted as a waiver, expressed or implied, unless it is in a written document executed by the party against whom the waiver is sought to be enforced.

22. Public Contracts for Services. The following only applies under the Agreement in states where the E-Verify program is required by law: Contractor certifies and agrees that it does not knowingly employ or contract with an illegal alien who shall perform work under the Agreement and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under the Agreement, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement. Contractor (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while the Agreement is being performed, (b) shall notify the subcontractor and the District within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under the Agreement, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the District a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the District may terminate the Agreement for breach. In no such termination event shall the District be owed a refund of prepaid fees.

23. Public Contracts with Natural Persons. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of the Agreement

24. Paragraph Headings. The captions and headings set forth herein are for convenience of reference only, and shall not be construed to limit or define the terms and provisions hereof.

25. The District's Confidential Information Belongs Solely to the District. The District's Confidential Information and all other confidential information and data relating to the District's business are the District's exclusive property, and the Contractor therefore agrees that:

- a. All notes, data, reference materials, sketches, drawings, memoranda, disks, documentation and records in any way incorporating or reflecting and of the Confidential Information and all proprietary rights in the Confidential Information, including copyrights, trade secrets and patents shall belong exclusively to the District;
- b. At all times while the Agreement is in effect, the Contractor will keep secret and will not disclose to any third party, take or misuse any of the District's Confidential Information, or any other confidential information the Contractor acquires or has access to because of its

provision of services;

- c. At all times while the Agreement is in effect, the Contractor will not use or seek to use any of the District's Confidential Information for the Contractor's own benefit or for the benefit of any other person or business in any way adverse to the District's interests;
- d. The Contractor will cause each of its employees who may gain access to any of the District's Confidential Information, to execute a confidentiality agreement reasonably acceptable to the District before disclosing any Confidential Information to that employee or permitting that employee to have access to any Confidential Information.
- e. On the District's request or on termination of the Agreement, the Contractor will promptly return to the District all its property, specifically including all documents, disks or other computer media or other materials in the Contractor's possession or control that contain any of the District's Confidential Information.
- f. After termination of the Agreement, the Contractor will preserve the secrecy of and will not disclose directly or indirectly to any other person or business any of the District's Confidential Information; and
- g. The Contractor will promptly advise the District of any unauthorized disclosure or use of the District's Confidential Information by any person or entity.

The parties agree this provision is intended to express the District's rights and the Contractor's duties to the District under the Colorado Uniform Trade Secrets Act, C.R.S. 7-74-101, et seq., and other applicable law. Additionally, the Contractor's obligation regarding the preservation and return of the District's Confidential Information will continue indefinitely, both during and after the time during which the Contractor may provide services and products to the District.

No Transfer of Intellectual Property Rights. Notwithstanding anything to the contrary in the Agreement, including this Exhibit B, neither party is assigning to the other party any right, title, or interest, whether express or implied, in or to their intellectual property. Finally, nothing in the Agreement shall limit either party's ability to protect and enforce its intellectual property rights.

26. Non-solicitation. The Contractor shall not solicit directly or indirectly any of the District's employees for a period of two (2) years following the termination of the Agreement without prior written consent of the District.

28. Notices, Process. Any notice under the Agreement requires must be in writing and will be effective only if hand- delivered or sent by certified U.S. mail, return receipt requested, to the party entitled to receive the notice at the Contractor's address provided in the Agreement, while the District's Notice address is as follows: Adams 12 Five Star Schools, Chief Operating Officer, 1500 East 128th Avenue, Thornton, CO 80241; or at such other address that either party may provide later to the other party. Each party agrees to waive service of process in any action brought to enforce or to interpret the Agreement and the parties further agree that service of the complaint and any other pleading, discovery, order or document in any such action that would otherwise have to be served by personal service will be deemed served three (3) days after being sent to the other party and that party's attorney as provided above. In no such termination event shall the District be owed a refund of prepaid fees.

PART 2 – Data Privacy

The provisions of this PART 2 are a part of the Agreement and will apply to both parties.

Covered Data

As used in this PART 2, confidential information, confidential data, student information, student data, and personally identifiable information (“PII”) have the same meaning. Student PII means information collected, maintained, generated or inferred that alone or in combination personally identifies an individual student or the student’s parent or family, in accordance with C.R.S. § 22-16- 103(13) & 34 C.F.R. § 99.3.

Compliance with State and Federal Law

All data sharing, use, and storage will be performed in accordance with the requirements of the Family Educational Rights and Privacy Act of 1974 as amended, 20 U.S.C. § 1232g & 34 C.F.R. § 99 (“FERPA”) and C.R.S. § 22-16-101, *et seq.*

Contractor Obligations:

1. Uses and Disclosures as Provided in the Agreement. Contractor may use and disclose the confidential information provided by the District only for the purposes described in the Agreement and only in a manner that does not violate local or federal privacy regulations. Only the individuals or classes of individuals will have access to the data that need access to the confidential information to do the work described in the Agreement. Contractor shall ensure that any subcontractors who may have access to confidential information are contractually bound to follow the provisions of the Agreement.
2. Nondisclosure Except as provided in the Agreement. Contractor shall not use or further disclose the confidential data except as stated in and explicitly allowed by the Agreement and state and federal law. Contractor does not have permission to re-disclose data to a third party.
3. Safeguards. Contractor agrees to take appropriate administrative, technical and physical safeguards reasonably designed to protect the security, privacy, confidentiality, and integrity of student information. Contractor shall ensure that student information is secured to the extent practicable during use and storage. And is encrypted during transmission. Contractor agrees that student information is presently stored on equipment or systems located domestically. In the event Contractor stores student information on equipment located other than domestically, Contractor shall make reasonable efforts to notify District, and District may terminate this Agreement with thirty (30) days’ written notice to Contractor.
4. Reasonable Methods. Contractor agrees to use “reasonable methods” to ensure to the greatest extent practicable that Contractor and all parties accessing data are compliant with state and federal law. Specifically, this means: 1. Only de-identified student data may be used for the purposes of educational research. 2. Contractor must protect confidential data from re-identification, further disclosures, or other uses, except as authorized by the District in accordance with state and federal law. Approval to use confidential data for one purpose does not confer approval to use it for another.
5. Confidentiality. Contractor agrees to protect student information according to commercially reasonable standards and no less rigorously than they protect their own confidential information.
6. Reporting. Contractor shall promptly report to the District of Contractor becoming aware of any use or disclosure of the confidential information in violation of the Agreement or applicable law.
7. Data Destruction. Confidential information must be destroyed in a secure manner or returned to the District at the end of the work described in the Agreement. Contractor agrees to promptly send a written certificate that the data was properly destroyed. Additionally, during the term of the Agreement, Contractor shall destroy confidential information upon written request of the District as soon as practicable. Contractor shall destroy confidential information in such a manner that it is permanently irretrievable in the normal course of business.
8. Minimum Necessary. Contractor attests that the confidential information requested represents the minimum necessary information for the services as described in the Agreement and that only necessary individuals or entities who are familiar with and bound by this PART 2 will have access to the confidential information in order to perform the work.

9. **Authorizations.** When necessary, Contractor agrees to secure individual authorizations to maintain or use the confidential information in any manner beyond the scope or after the termination of the Agreement.
10. **Data Ownership.** The District is the data owner. Contractor does not obtain any right, title, or interest, other than as granted by this Agreement, in any of the data furnished by the District.
11. **Misuse or Unauthorized Release.** Contractor shall notify the District as soon as reasonably practicable upon discovering the misuse or unauthorized release of student PII held by Contractor or one of its subcontractors, regardless of whether the misuse or unauthorized release is the result of a material breach of the Agreement.
12. **Data Breach.** In the event of a data breach, Contractor will be responsible for contacting and informing any parties, including students, which may have been affected by the security incident. Contractor will promptly notify the District upon the discovery of any data breach.

Prohibited Uses

Contractor shall not sell student PII; use or share student PII for purposes of targeted advertising; or use student PII to create a personal profile of a student other than for accomplishing the purposes described in the Agreement.

Notwithstanding the previous paragraph, and in addition to the limited license to use student PII to perform its Services hereunder, Contractor may use student PII to ensure legal or regulatory compliance or take precautions against legal liability; respond to or participate in the judicial process; protect the safety of users or others on Contractor's website, online service, or application; or investigate a matter related to public safety. Contractor shall notify the District as soon as possible of any use described in this paragraph.

School Service Contract Provider Additional Provisions

If Contractor is a School Service Contract Provider – defined in C.R.S. § 22-16-103 as an entity that enters into a contract with the District to provide a website, online service, or application that is designed and marketed primarily for using in a school and collects, maintains or uses student personally identifiable information – the following provisions shall apply:

1. **Data Collection Transparency and Privacy Policy.** Contract shall provide clear information that is understandable by a layperson explaining the data elements of student PII that Contractor collects, the learning purpose for which it collects the student PII, and how Contractor uses and shares the student PII. The information must include all student PII that Contractor collects regardless of whether it is initially collected or ultimately held individually or in the aggregate. Contractor shall provide the District with a link to the information on a webpage maintained and updated by Contractor so that the District may post the link on its website., http://turnitin.com/en_us/about-us/privacy
2. **Notice Before Making Changes to Privacy Policy.** Contractor shall make commercially reasonable efforts to provide notice to the District before making material changes to Contractor's privacy policy that affects student PII.
3. **Correction of Inaccurate Student PII.** Contractor shall facilitate access to and correction of any factually inaccurate student PII in response to a request for correction that the District receives. Contractor represents that the information available to students and parents via individual student logins includes, as reasonably practicable, all PII collected, maintained, generated or inferred by the Contractor about that student.
4. **Grounds for Termination.** Contractor understands that any breach by Contractor or any subcontractor of this addendum, state or federal law regarding student information, or the Contractor's privacy policy described above, may be grounds for termination of the Agreement in accordance with C.R.S. § 22-16-107(2)(a). In no such termination event shall the District be owed a refund of prepaid fees.