MEMORANDUM OF UNDERSTANDING
Between <<District>> and Clever, Inc.
FOR TRANSMITTING STUDENT DATA TO DISTRICT VENDORS

PARTIES

1. <<District>> ("District") is a public school District organized and existing under and pursuant to the constitution and laws of the State of <<State>> and with a primary business address at <<Address>>.

2. Clever, Inc. ("Clever") has a primary business address at 140 2nd Street, Fourth Floor, San Francisco CA 94105.

3. District and Clever enter into this Memorandum of Understanding (MOU) as of the date in which both parties have approved and executed this MOU.

PURPOSE

4. Clever will receive electronic data from the District containing student, teacher, and other information. District may designate third parties who are authorized to securely access the District's information via the Clever Application Programming Interface. Transferring data through Clever allows the District to minimize time spent on data transfers, which would otherwise require the creation of separate record layouts for each vendor. District may also use Clever Instant Login to provide single sign-on capability for designated third party applications. There is no cost to the District to use Clever or Clever Instant Login.

DUTIES

5. The District shall perform the following duties:

a. Provide Clever with information security specifications required to transmit pupil record and other information electronically.

b. Provide data for the purposes of this MOU in compliance with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. section 1232g and 34 C.F.R. section 99, and related <<State>> Education Code provisions.

6. Clever shall abide by Attachment A, "Student Record Confidentiality and Redisclosure MOU," which is attached hereto and made a part hereof. In addition, Clever shall:

a. Comply with all FERPA and <<State>> Education Provisions, including the following:

i. Use the data shared under this MOU for no purpose other than the work stated in this MOU and authorized under Section 99.31(a)(6) of Title

34 of the code of Federal Regulations. Clever further agrees not to share data received under this MOU with any entity not authorized by the District.

ii. Require all Clever employees and agents of any kind to comply with all applicable provisions of FERPA and other federal and <<State>> laws with respect to the data shared under this MOU. Clever agrees to require and maintain an appropriate confidentiality MOU from each Clever employee or agent with access to data pursuant to this MOU (Attachment A, Student Record Confidentiality and Redisclosure MOU).

iii. Maintain all data obtained pursuant to this MOU in a secure computer environment and not copy, reproduce or transmit data obtained pursuant to this MOU except as necessary to fulfill the purpose of this MOU. All copies of data of any type, including any modifications or additions to data from any source that contains information regarding students, are subject to the provisions of this MOU in the same manner as the original data. The ability to access or maintain data under this MOU shall not under any circumstances transfer from Clever to any other institution or entity.

iv. Clever shall comply with the District's information security specifications prior to receiving any electronic transfers of pupil record information. District may require Clever to provide documentation of compliance prior to any transmittal.

DATA REQUEST

7. Clever will be provided with personally identifiable pupil record and other information, as designated in Attachment B: Data Fields.

8. Clever agrees that the District makes no warranty concerning the accuracy of the student data and other information provided.

TERM

9. The MOU shall be effective for one (1) year from the date the last party signs (the "Initial Term"). Upon mutual agreement of both parties, the MOU may be renewed for one (1) year terms. Either party may terminate this MOU for any reason at any time upon not less than three (3) calendar days prior written notice.

GENERAL PROVISIONS

10. INDEPENDENT CONTRACTOR. While engaged in performance of this MOU, Clever is an independent contractor and is not an officer, agent, or employee of the District. Clever is not entitled to benefits of any kind to which District's employees are entitled, including but not limited to unemployment compensation, worker'

compensation, health insurance and retirement benefits. Clever assumes full responsibility for the acts and/or omissions of Clever's employees or agents as they relate to performance of this MOU. Clever assumes full responsibility for workers' compensation insurance, and payment of all federal, state and local taxes or contributions, including but not limited to unemployment insurance, social security, Medicare and income taxes with respect to Clever and Clever's employees. Clever warrants its compliance with the criteria established by the U.S. Internal Revenue Service (I.R.S.) for qualification as an independent contractor, including but not limited to being hired on a temporary basis, having some discretion in scheduling time to complete contract work, working for more than one employer at a time, and acquiring and maintaining its own office space and equipment.

11. CONFLICT OF INTEREST. Clever represents that Clever has no existing financial interest and will not acquire any such interest, direct or indirect, which could conflict in any manner or degree with the performance of services required under this MOU and that no person having any such interest shall be subcontracted in connection with this MOU, or employed by Clever. Clever shall not conduct or solicit any non-District business while on District property.

a. Clever will also take all necessary steps to avoid the appearance of a conflict of interest, and shall have a duty to disclose to the District prior to entering into this MOU any and all circumstances existing at such time, which pose a potential conflict of interest.

b. Clever warrants that it has not directly or indirectly offered or given, and will not directly or indirectly offer or give, to any employee, agent, or representative of District any cash or non-cash gratuity or payment with view toward securing any business from District or influencing such person with respect to the conditions, or performance of any contracts with or orders from District, including without limitation this MOU. Any breach of this warranty shall be a material breach of each and every contract between District and Clever.

c. Should a conflict of interest issue arise, Clever agrees to fully cooperate in any inquiry and to provide the District with all documents or other information reasonably necessary to enable the District to determine whether or not a conflict of interest existed or exists.

d. Failure to comply with the provisions of this section shall constitute grounds for immediate termination of this MOU, in addition to whatever other remedies the District may have.

12. EQUAL EMPLOYMENT OPPORTUNITY. In connection with all work performed under District MOUs, there shall be no discrimination against any employee or applicant for employment because of race, color, religious creed, national origin, ancestry, marital status, sex, sexual orientation, age, disability or medical condition and therefore the Clever agrees to comply with applicable federal and state laws. In addition, the Clever agrees to require like compliance by all subcontractors employed on the work.

13. GOVERNING LAW. The validity, interpretation and performance of this MOU shall be determined according to the laws of the State of <<State>>.

14. INSURANCE. At its sole cost and expense, Clever shall obtain and maintain for the entire term of the MOU the following insurance with coverage limits not less than as specified: (1) Commercial General Liability, including $1,000,000 bodily injury and property damage liability, $2,000,000 general aggregate, $1,000,000 products and completed operations, $1,000,000 personal/advertising aggregate, $100,000 damages to rented premises, and $10,000 medical expenses; (2) Automobile Liability for owned and non-owned vehicles with $1,000,000 combined single limit, (3) Workers Compensation as required by law, (4) Employer's Liability, including $1,000,000 bodily injury each accident, $1,000,000 bodily injury by disease – policy limit, $1,000,000 bodily injury by disease – each employee; (5) Excess Liability / Umbrella of $1,000,000 each occurrence, $2,000,000 aggregate (6) Data Breach Liability of $1,000,000 each occurrence, and (6) Professional Liability (per claims made) of $1,000,000 limit.

15. NOTICES. All notices required or permitted by this MOU shall be in writing and shall be either personally delivered or sent by nationally-recognized overnight courier, facsimile or by registered or certified U.S. mail, postage prepaid, addressed as set forth below (except that a party may from time to time give notice changing the address for this purpose). A notice shall be effective on the date personally delivered, on the date delivered by a nationally-recognized overnight courier, on the date set forth on the receipt of a telecopy or facsimile, or upon the earlier of the date set forth on the receipt of registered or certified mail or on the fifth day after mailing.

16. INDEMNIFICATION. Clever shall indemnify, save, and hold harmless District and its Board, agents, and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions, and causes of action of whatsoever kind, nature, or sort arising out of, or in any manner connected with, the performance by Clever of any Services hereunder.

SIGNATURES

IN WITNESS WHEREOF, the parties have executed this MOU as the last day noted below.

<<District>>

By:

Name:

Title / Position:

Address:

Date:

CLEVER, INC.

By:

Name:

Title / Position:

Address:

Date:

ATTACHMENT A

STUDENT RECORD CONFIDENTIALITY AND RE-DISCLOSURE MOU

<<District>> ("District"), and Clever Inc. ("Clever") have entered or are planning to enter into an MOU or other arrangement that may involve Clever's receipt of or access to certain student records and information concerning District students. The parties are entering into this Student Record Confidentiality and Re Disclosure MOU ("MOU") in order to ensure proper treatment of any student record information that Clever obtains or learns.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. DEFINITIONS.

a. "Student Record Information" means any item of information (in any format, written, electronic, or other) that is directly related to an identifiable District pupil (current or former) and is maintained by the District or by a District employee in the performance of his or her duties.

2. STUDENT RECORD INFORMATION. Clever will only disclose Student Record Information in accordance with the terms of this MOU and will make no other disclosure of Student Record Information at any time.

a. Clever shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all data, including electronically-

maintained or transmitted data received from, or on behalf of the District. These measures will be extended by contract to all subcontractors used by Clever.

b. Clever and its employees, subcontractors and agents involved in the handling, transmittal, and/or processing of data provided under this MOU will be required to maintain the confidentiality of all student and staff-related personally identifiable information.

c. Clever will maintain procedures and systems that shall require the use of secured passwords to access computer databases used to process, store, or transmit data provided under this MOU.

d. Procedures and systems, such as good practices for assigning passwords, shall be developed and implemented to maintain the integrity of the systems used to secure computer databases used to process, store, or transmit data provided under this MOU.

e. Procedures and systems that ensure that all confidential student and staff data processed, stored, and/or transmitted under the provisions of this MOU shall be maintained in a secure manner that prevents the interception, diversion, or other unauthorized access to said data.

f. The procedures and systems developed and implemented to process, store, or transmit data provided under this MOU shall ensure that any and all disclosures of confidential student and staff data comply with all provisions of federal and <<State>> state laws relating to the privacy rights of students and staff as such laws are applicable to the parties to this MOU.

g. Upon written request from District or early termination of this agreement, Clever shall return to District all data or any portions thereof requested by the District, within 24 hours of the written request or termination of this agreement. At District's election, as evidenced by written request, Clever shall destroy all or any part of the District's data that is within the possession of Clever, and shall provide certification of such destruction within 24 hours of the written request.

3. RE-DISCLOSURE.

a. CONSENT REQUIRED. Clever will only disclose Student Record Information to its employees having a need to know in connection with their Project responsibilities, and will not disclose any Student Record Information to any third party without first obtaining written consent to the disclosure from each Consenting Party for whom Student Record Information will be disclosed. Clever will promptly provide the District with copies of any and all written consents that the Clever obtains under this paragraph.

b. ACCESS LOG AND RECORD FILES. Clever will maintain an access log

that records all disclosures of (or access to) Student Record Information. Entries in the access log will identify the person(s) receiving access, the reason access was granted, the date, time and circumstances of disclosure, and all Student Record Information provided. The access log will be made available to the District promptly upon request.

4. REQUIRED DISCLOSURE. In the event that Clever is requested or required by subpoena or other court order to disclose any Student Record Information, Clever will provide immediate notice of the request to the District and will use reasonable efforts to resist disclosure until an appropriate protective order may be sought, or a waiver of compliance with the provisions of this MOU granted. If, in the absence of a protective order or the receipt of a written waiver hereunder, Clever is nonetheless, in the written opinion of its counsel, legally required to disclose Student Record Information, then Clever may disclose that Student Record Information without liability hereunder, provided that the District has been given a reasonable opportunity to review the text of the disclosure before it is made and that the disclosure is limited to only Student Record Information specifically required to be disclosed.

5. SAFEGUARDS.

a. Clever shall provide District with the name and contact information for a primary and alternate employee of Clever who shall serve as District's primary security contact and who shall be available to assist District twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a Student Record Information related Security Breach. The designated contact shall respond to any District inquiries within two (2) hours.

b. In the event that an unauthorized disclosure of Student Record Information, unauthorized access to Student Record Information, or other incident that threatens the security of Student Record Information comes to the attention of Clever, Clever will immediately notify the District.

c. Without limiting Clever's obligations under this Contract to keep Student Record Information safe and confidential, Clever shall implement administrative, physical, and technical infrastructure and procedural safeguards to protect and maintain the integrity of Student Record Information that Clever receives, maintains, or transmits on behalf of District. Such safeguards shall be no less rigorous than accepted industry practices, including specifically the International Organization for Standardization's standards ISO/IEC 27001:2005 (Information Security Management Systems- Requirements), ISO-IEC 27002:2005 (Code of Practice for International Security Management). Clever shall ensure that the manner in which Student Record Information is collected, accessed, used, stored, processed, disposed of, and disclosed complies with applicable data protection and privacy laws, as well as the terms and conditions of this Contract.

d. The District’s Student Record Information shall be stored, backed up and served only on servers located inside the continental United States.

e. Clever will assure that all data is transmitted from District's access points to the ultimate server and will be stored internally by Clever using District approved encryption of no less rigor than NIST-validated DES standards.

f. ADDITIONAL SAFEGUARDS. Clever agrees to provide the following additional safeguards:

i. Include component and system level fault tolerance and redundancy in system design.

ii. Inactivity time-out feature that logs users off the system who have been inactive or exceeded a maximum number of login attempts.

iii. Encrypt user passwords in any data storage location and obfuscate password entry fields in any entry interface controlled by the discloser.

iv. Authentication of users at login with a 256-bit or higher encryption algorithm.

v. Secure transmission of login credentials.

vi. Automatic password change routine.

vii. Provide audit trails and reports of user activity and source IP address.

viii. Secure (encrypt) the audit trails and system generated logs, and ensure that they are stored in locations that are inaccessible to automated content discovery software.

ix. Conduct or undergo system level testing whenever new functionalities are added to the system to reconfirm system security measures are retained and functional, and that interaction with District systems is not degraded or compromised.

x. Employ an in-line Intrusion Protection System that inspects incoming data transmissions.

xi. Support system security measures testing and verification before receiving or transmitting Student Record Information.

xii. Provide upon request a documented Disaster Recovery Plan that includes the following elements:

1. Available recovery times.

2. Conduct 24x7 system monitoring that is capable of detecting

potential outages.

3. Plans for File-level, Database and server recovery after a component/system failure, damage, or compromise.

4. Substantial geographical separation between data centers hosting production, backup and redundant system elements.

5. Include recovery/mitigation procedures for all managed sites, including subcontractors and agents.

6. Include provisions for at least the following events: fire, natural disaster, sabotage, accidental human error, flooding, equipment failure, application/database failure

xiii. Prevention of hostile or unauthorized intrusion.

xiv. Security screening of employees with access to Student Record Information. Screening is to be conducted by a commercial background screening company, the name of which is to be provided to District upon request.

xv. Backup all Student Record Information at least once every 24 hours.

xvi. Perform content snapshots at least daily and retain for at least 90 days.

6. MITIGATION. Clever shall mitigate, to the extent practicable, any actual or potential harmful effect that is known to Clever of a use or disclosure of Student Record Information by Clever in violation of the requirements of this Contract.

7. NOTICE OF SECURITY INCIDENT.

a. Clever shall report to District any: (1) unauthorized access, use, disclosure, modification, or destruction of Student Record Information that becomes known to Clever; or (2) interference with Clever's information systems operations, of which Clever becomes aware. Clever shall notify District of any use or disclosure of Student Record Information by Clever not permitted by this Contract, any security incident involving Student Record Information, and any breach or loss of Student Record Information, within twenty-four (24) hours.

b. Immediately following Clever's notification to District of a security incident, breach, or loss of Student Record Information, the parties shall coordinate with each other to investigate the matter. Clever shall cooperate with District in investigating the matter and in meeting District's notification obligations under any applicable notification laws. Clever agrees to fully cooperate with District in District's handling of the matter, including, without limitation:

i. Assisting with any investigation;

ii. Facilitating interviews with Clever's employees and others involved in the matter; and

iii. Making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, industry standards or as otherwise required by District.

iv. Providing the tools and procedures necessary to recapture stored Student Record Information in the event of the loss of such information from the Clever's storage medium.

c. Clever shall provide the following information to DISTRICT within five (5) business days of discovery of a security incident, breach, or loss of Student Record Information except when, despite all reasonable efforts by Clever to obtain the information required, circumstances beyond the control of the Clever necessitate additional time, Under such circumstances, Clever shall notify District, before the five (5) business days have elapsed, of the necessity for additional time, And shall provide to District the following information as soon as possible and without unreasonable delay, but in no event later than fifteen (15) calendar days from the date of discovery of a security incident, breach, or loss of Student Record Information:

i. The date of the security incident, breach, or loss of Student Record Information;

ii. The date of the discovery of the security incident, breach, or loss of Student Record Information;

iii. A description of the types of Student Record Information that were involved;

iv. Identification of each individual whose Student Record Information has been, or is reasonably believed to have been, accessed, acquired, lost, modified, or disclosed; and

v. Any other details necessary to complete an assessment of the risk of harm to each individual identified in this Contract.

d. Clever agrees to establish procedures to investigate the security incident, breach, or loss of Student Record Information, to mitigate losses, and to install/ implement such safeguards as are needed to protect against any future security incident, breach, or loss of Student Record Information, Clever agrees to provide a description of these procedures and the specific findings of the investigation to District in the time and manner reasonably requested by District.

8. COMPLIANCE OF AGENTS.

a. The District may designate third parties who are authorized to securely access its Student Record Information in Clever's possession/custody, Clever shall not disclose any Student Record Information to any third party unless Clever has received prior written approval by District or such disclosure is required by law.

b. District may, at any time, revoke any third party's access to Student Record Information by providing written notice to the third party or Clever.

c. For all employees or subcontractors who have access to Student Record Information, during the term of each subcontractor or employee's employment by Clever, Clever shall at all times cause such subcontractor or employee to abide strictly by Clever's obligations under this Contract. Clever further agrees that it shall maintain a disciplinary process to address any unauthorized access, use or disclosure of Student Record Information by any of Clever's officers, partners, principals, employees, or agents.

9. NO LICENSE. No licenses or other rights under patent, copyright, trademark, trade secret or other intellectual property laws are granted or implied by this MOU. The District is not and will not be obligated under this MOU to purchase from or provide to Clever any information, service, or product.

10. DISCLAIMER. The Student Record Information is provided AS IS and without warranty of any kind, whether expressed or implied, including, without limitation, implied warranties of merchantability, fitness for a particular purpose or title. The District shall not have any liability or responsibility for errors or omissions in, or any decisions made by Clever in reliance upon any Student Record Information.

11. REMEDIES.

a. INJUNCTIVE RELIEF. The parties agree that Student Record Information is of a special character, such that money damages would not be sufficient to avoid or compensate the District, its employees, agents and students for any unauthorized use or disclosure thereof, and that injunctive and other equitable relief would be appropriate to prevent any actual or threatened unauthorized use or disclosure. This remedy may be pursued in addition to any other remedies available at law or in equity, and Clever agrees to waive any requirement for the securing or posting of any bond. In the event of litigation to enforce any provision hereof, the prevailing party will be entitled to recover all costs, including its reasonable attorneys fees and costs, incurred in connection with the litigation.

b. FIVE-YEAR BAR. If the District determines, or is made aware of a determination by any other governmental agency, that Clever has disclosed any Student Record Information in violation of this MOU, or has maintained any Student Record Information in violation of this MOU, then without prejudice to any other rights or remedies the District may have, the District shall be entitled to

prohibit Clever from accessing any Student Record Information for a period of five (5) years or more, as determined by the District in its sole discretion.

12. REQUIRED NOTICE. Clever shall notify the District immediately upon discovery of any unauthorized use or disclosure of Student Notices. All notices required or permitted to be given hereunder shall be in writing and shall be deemed given when delivered by hand, sent by courier or other express mail service, postage prepaid, or transmitted by facsimile, addressed to a party at the address set out by its signature below.

13. WAIVER. No waiver of any term, provision or condition of this MOU, whether by conduct or otherwise, in any one or more instances, will be deemed to be or be construed as a further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision or condition of this MOU.

14. SEVERABILITY. If any provision of this MOU is determined by any court to be invalid or unenforceable, such provision shall be interpreted to the maximum extent to which it is valid and enforceable, all as determined by such court in such action, and the remaining provisions of this MOU will, nevertheless, continue in full force and effect without being impaired or invalidated in any way.

15. ENTIRE MOU. This MOU constitutes the parties' entire MOU with respect to the subject matter hereof and supersedes any and all prior statements or MOUs, both written and oral. This MOU may not be amended except by a written amendment signed by the parties.

ATTACHMENT B
DATA FIELDS

The data elements covered under this MOU are:

1. SCHOOLS

School ID, School Name, State ID, NCES ID, School Address, School City, School State, School Zip, School Phone, Low Grade, High Grade, Principal, Principal Email.

2. STUDENTS

School ID, Student ID, Student Number, State ID, Last Name, Middle Name, First Name, Gender, DOB, Grade, Race (optional), Hispanic/Latino (optional), ELL Status (optional), FRL Status (optional), IEP Status (optional), Student Zip (optional), Student Email, Contact Name (optional), Contact Type (optional), Contact Phone (optional), Contact Email (optional), Student Username (optional), Student Password (optional).

3. TEACHERS

School ID, Teacher ID, Teacher Number, State Teacher ID, Last Name, Middle Name, First Name, Teacher Email, Title, Teacher Username (optional), Teacher Password (optional).

4. SECTIONS

School ID, Section ID, Teacher ID, Section Name, Section Grade, Course Name, Course Number, Period, Subject, Term Name, Term Start, Term End.