

**CONNECTIONS EDUCATION LLC
K-12 VIRTUAL LEARNING PROGRAMS
1ST AMENDED AND RESTATED STATEMENT OF AGREEMENT**

Customer Name: Durango School District- 9R

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Effective Date: February 2, 2016

The Durango School District-9-R (“District”) and Connections Education LLC (“Connections”), are hereby entering into this 1st Amended and Restated Statement of Agreement (“Agreement”) whereby District is contracting with Connections to receive access to certain virtual education products through Connexus[®], Connections’ education management system (EMS), along with associated support services, as more fully set forth herein (collectively “the Education Program”), said Education Program to be offered state-wide to Students in a District authorized K through 12 Multi-district Online school under the name Colorado Connections Academy @ Durango (“School”).

1. **Purpose of Amendment:** The purpose for amending and restating this Agreement is to better identify the District’s role as the repository of Permanent Student Records (defined in the Index of Defined Terms) and Connections role in collecting and delivering to the District such Permanent Student Records. Affected sections by this Amended and Restated Agreement are sections 3j and Index of Defined Terms.
2. **Defined Terms:** Capitalized terms within the Agreement, not otherwise defined herein, have the meanings ascribed to them in the Index of Defined Terms, attached hereto and incorporated herein by reference.
3. **Connections Responsibilities:**
 - a. **Education Program.** Provide the Curriculum which, when supplemented with Teacher provided additions and modifications, meets the State standards, as adopted by the Colorado Department of Education. The Curriculum shall include, at a minimum, the following:
 - i. Connections standard Course offerings, including core and elective subjects, augmented by a mix of supporting online and offline instruction and intervention resources.
 - ii. Access to clubs, activities, and special events described in the Program Guide.

- iii. To the extent permitted by Colorado law, optional access to certain courses taught through the International Connections Academy (“iNaCA”).
 - iv. In accordance with the license terms set forth in Section 6 below, a license to use all required curricular and instructional materials that are part of Connections’ standard offering, including textbooks, ancillary materials such as kits, texts and other instructional resources (collectively “Instructional Materials”). Instructional Materials will be provided in compliance with a Student’s individualized education plan (“IEP”) or 504 Plan.
 - v. Access to online lesson content, instructional materials, including Teachlet[®] tutorials, Longitudinal Evaluation of Academic Progress (“LEAP”) and other intangible educational resources included in Courses.
- b. Connexus[®] Access.
- i. In accordance with the license terms set forth in Section 6 below, a license for the duration of the Term to access and use Connections’ proprietary technology platform, known as Connexus[®], for purposes of utilizing the Education Program set forth in Section 3 of this Agreement, including providing web-based access from non-school sites to the Education Program by Students, Caretakers of Students, Learning Coaches, Teachers, Administrative Staff, and District Coordinator;
 - ii. Access to other technologies, including those offered through Connexus[®], including the Connexus[®] student information system, lesson scheduling tools, accountability tools, webmail system, video and audio streaming, and message board forum; and the ability to track Student progress.
- c. Operations Services. With the oversight of the District, and subject to the Delegation of Responsibility set forth in Section 4 a. i. below, provide services critical to the operation and integrity of the Education Program of the School (“Operations Services”), including, conducting the recruitment search and employing the final job candidates Connections believes to be best suited to fill the roles of Principal (sometimes referred to herein as the Lead School Administrator), Special Education Director, Teachers and Administrative Staff, as well as any other person employed to provide services to or on behalf of the School (collectively “School Staff”). All School Staff shall be licensed and/or credentialed in accordance with Colorado law. Connections shall notify the District of any School Staff member who Connections’ learns has been convicted of a felony or a misdemeanor. “Convicted” for purposes of this Agreement shall have the same meaning as set forth in CRS 22-32-109.8(7). Connections shall prepare any policies it believes the School will need to adopt to be compliant with State law, as well as prepare all reports to the Caretakers, and/or other third parties required by law and/or the District. Operations Services shall be provided in accordance with federal and state law, and the authority conferred to Connections by the District. To the extent any School operational practice, including any aspect of the delegation of authority from the District to Connections in section 4 a. i. below, is determined to violate federal or state law, the parties agree to negotiate in good faith an amendment to this Agreement to cure such determined violation.

- d. Complaints. Promptly investigate any concerns or complaints raised by the District involving the performance of any member of the School Staff or other personnel providing support services to the School, regardless of whether (i) employed by Connections; (ii) employed by the District; or (iii) retained as an independent contractor.
- e. Counseling and Related Services: Provide academic counseling and other related services to Students, including assisting in the development of protocols and providing consultative support in connection therewith.
- f. Services to Special Need Students. The Education Program shall comply with the requirements of the Individuals with Disabilities Education Improvement Act of 2004 ("IDEA") and any and all state and federal regulations promulgated in connection therewith. To that end, Connections will provide all Special Education Services in a manner that complies with state and federal law. Connections will be responsible for assigning one or more special education managers to oversee the delivery of School's Special Education Services, including developing and implementing all Special Education Services policies and procedures, oversight of all personnel involved in the provision of Special Education Services, including the Special Education Director, 504 coordinator, and all outside contractors retained for such purposes. To the extent permitted by law, Connections may elect to have the special education manager(s) serve as the School's Special Education Director and Section 504 coordinator rather than employ a dedicated resource to fill one or both of those roles.
 - (i) Admission Process/Procedure. To ensure that the needs of students with disabilities are met following the application deadline, the Student/District must provide the most recent IEP or Section 504 Plan, if any. If the applicant has an IEP or Section 504 Plan, the IEP or Section 504 Plan will be provided to Connections immediately upon receipt of enrollment notification.
 - (ii) Incurring Costs in Excess of Funding. If Connections incurs costs in excess of any funding that it receives for a Student with special needs, upon submission of support for its costs in a form acceptable to the District, Connections shall be permitted to submit an invoice payable to the District to submit to the Student's resident school district for payment of such costs to the extent permitted by C.R.S. 22-20-109(6). A copy of any such invoices shall be provided to the District.
- g. English Language Learners. At its sole cost, Connections shall provide resources and support for Students who are English language learners ("ELLs") designed to enable ELLs to acquire sufficient English language proficiency to participate in a mainstream English language instructional program. Connections shall either (i) follow the District's procedures for identifying, assessing; and exiting ELLs or (ii) have any alternate procedures approved by the District, consistent with state and federal law.
- h. Enrollment and Academic Placement Processing. Implement and conduct the School enrollment process on behalf of the District, in accordance with placement and withdrawal policies and procedures adopted by Connections, and consistent with local, state and federal law. The District hereby appoints Connections as the

School's agent throughout the enrollment process for purposes of obtaining and delivering information from and to Students and Caretakers relevant to the enrollment and placement process. Students shall be permitted to enroll in the School exclusively on a full-time basis.

- i. Students who wish to take a course not offered by the School may do so through Colorado Department of Education run Concurrent Enrollment Program operated pursuant to the Concurrent Enrollment Programs Act.
 - ii. Except as otherwise provided for in this Section, dual or part-time enrollment will not be permitted except by prior written agreement by Connections and the District, and neither Party shall have any obligation to accept a dual or part-time enrollment or provide any payment for services provided by other parties.
 - iii. The District has no responsibility to pay Connections for any Students Enrolled in the School who are not eligible.
 - iv. Connections shall maintain a list of the Students Enrolled on behalf of the District, and shall provide such list to the District promptly upon request.
 - v. Connections will report on the status of withdrawals to the District monthly during the Academic Year, or whenever requested by the District.
 - vi. Connections will be responsible for reimbursing any state and federal funds that it has received to the extent funding is disallowed as a result of a Student's withdrawal.
- i. Attendance. Attendance records shall be based on the record of completion of assignments as recorded by the Caretaker, Learning Coach and/or Student (as the case may be) and verified by the Teacher, as well as on Student's attendance as documented by the procedures for Teacher-Student contact as specified by the District (unless by documented and excused absence) during any attendance count days required by the State of Colorado.
 - j. Repository of School Records. The District shall be the repository of all Permanent Student Records and other permanent School records required by Colorado law to be collected and maintained by the District. Permanent Student Records received or collected by Connections on behalf of the District pursuant to its responsibilities set forth in this Agreement, shall be forwarded to the School or the District as directed by District. The District hereby appoints Connections, as its repository of electronic Student Records, and other electronic School records, including electronic financial records. Connections shall store and maintain such electronic Student Records and other School records in accordance with state, local and federal requirements and consistent with commercially reasonable technical and organizational measures intended to protect against (i) accidental or unauthorized destruction; (ii) accidental or intentional loss or alteration; or (iii) unauthorized disclosure or access. In the event the Agreement terminates, Connections shall be obligated to maintain said repository for a period of 7 years following such termination for no additional fee. Further, upon reasonable request, and in a manner that will not interfere with the Authorized Users accessing the Education

Program, for the duration of being the Repository of School Records, Connections shall make available to the School's independent auditor all School records, including financial records.

- k. Student Records Support. In furtherance of its enrollment and placement related obligations set forth in section 3h above and in connection with its repository obligations set forth in 3j above :
 - i. Connections shall receive from Caretakers all Student Records on the District's behalf that are submitted electronically through its secure, password-protected system ("Server");
 - ii. Connections shall maintain the confidentiality of all Students' records in compliance with applicable state and federal laws, and pursuant to the confidentiality provisions set out in Section 14 of this Agreement. Connections shall maintain such records as are required to comply with all attendance rules and apportionment requirements specified by applicable law.
 - iii. All Student Record information shall remain the property of the District, and, to the extent not immediately available through the District's on-demand access, shall be provided to the District via a secure means within five (5) business days of the District's written request for such information. To the extent permitted by law, Connections may retain a copy of such records subject to the confidentiality requirements of this Agreement until such time as the School provides written notice requesting that specific records be returned or Destroyed.
 - iv. Unless the parties expressly agree to a longer time period, Connections shall certify to the District within one year from the date it receives instructions as to what Student Records are to be returned or Destroyed that it has complied with the instructions of the District in connection with such notice.
- l. Colorado Connections Academy @ Durango. Provide a limited, royalty free, nontransferable license for the duration of the Term, unless terminated earlier as described in section 17, to use the name "Colorado Connections Academy @ Durango" as the name for the School being operated under the terms of this Agreement.
- m. Personalized Learning Plan Protocol. Provide Teachers with resources and assistance designed to enhance their effectiveness in creating a Personalized Learning Plan ("PLP") for each Student, as required to meet or exceed any educational standards established by the State of Colorado or otherwise required by the District.
- n. Testing and Assessments. Administer all State required testing and other State mandated assessments.
- o. Teacher-Learning Center. Provide a fully equipped and furnished teacher-learning center, at no additional cost to the District, which shall also operate as the School's administrative offices. In the event Connections determines to locate the teacher-learning center outside of the District, the District will take those measures

reasonably requested of it to assist Connections in securing authorization from all necessary authorities to so locate the teacher-learning center.

- p. Insurance. Maintain and keep in force the insurance policies set forth in **Exhibit A**, which shall be in amounts that are no less than the minimum levels required by the District, applicable law, or both.
- q. Public Website. Maintain a public web site on behalf of the School that will contain or link to any information required by state law.
- r. Other Professional and Technical Support Services.
 - i. Provide human resources and support services integral to delivery of the Education Program, including: (1) recruiting, employing, training, supervising, monitoring, and supporting School Staff, as well as managing the performance evaluation process for School Staff; (2) implementing a performance based compensation program for all School Staff designed to attract and retain qualified personnel; (3) providing employee benefit plans as required by law; (4) conducting background checks as specified by law; and (5) development of an employee handbook. School Staff shall not participate in any state or District benefit programs, including any pension plans.
 - ii. Provide 24/7 technical support through on-line Help (in Connexus[®]) and live phone support via Connections Support Services to parents, students, and staff Monday-Friday 7:00 a.m. to 7:00 p.m. (MT); and on-call support all other times. For Students not using computer technology provided by Connections, Connections shall provide initial technical support to ensure Students have the minimum requirements necessary to participate in the Education Program, and ongoing technical support on an as needed basis for the Students' use of Connexus[®].
 - iii. To the extent Connections recruits volunteers to act as Community Coordinators to volunteer their services to coordinate School-sanctioned community activities and field trips, Connections shall be responsible for obtaining any necessary background checks for each Community Coordinator, as required under applicable law. Community Coordinators shall not be considered employees or contractors of Connections or the District. Neither Connections nor the District is responsible for providing transportation to these group activities, or otherwise providing for the cost of such activities, unless otherwise, and then only to the extent agreed or mandated by IEPs, the cost of which would be borne by Connections.
 - iv. During the Academic Year, staff an educational resource center during the hours of 7:00 a.m. – 4:00 p.m. MT with education professionals trained in the delivery of the Education Program to provide applicable School Staff with additional education support services.
 - v. Provide all Teachers with access to all Instructional Materials supplied to Students as necessary to conduct their teaching responsibilities.

- vi. Provide District designees and School Staff training in Connections protocols and other best practices. In addition, as part of its fee for Educational Services paid to Connections, Connections will make available to the District and School Staff continuing professional development and other related training, leadership development and peer to peer networking opportunities (collectively "Training"), including conferences Connections believes to be a valuable training opportunity related to delivery of virtual education services such as iNACOL, that support the School mission and delivery of the Educational Services, and which shall be sufficient, at minimum, to allow the School Staff to comply with applicable laws that specify Training requirements. All costs associated with such Training shall be the responsibility of Connections, including related travel, housing, meal and hospitality costs, except to the extent Connections notifies the District prior to the Training opportunity of those costs, the District will be required to cover. All Connections' sponsored training will be for the purpose of promoting the School's education mission and other related official school business.
- vii. Provide training and support programs and materials to Students, Learning Coaches, Caretakers and community coordinators on the Curriculum, use of Connexus[®], various Connections policies and procedures, and other technology to support Student learning as appropriate.
- viii. Develop and implement a Public Information Campaign ("PIC") to inform potential students, their Caretakers, and other interested parties about the Education Program. All PICs will comply with Connections' trademark usage guidelines located at <http://www.connectionsacademy.com/terms-of-use/trademark-guidelines.aspx>. Connections is under no obligation to implement any PIC initiatives promoted by the District that Connections determines will have a negative impact on its brand identity and/or reputation in the Marketplace, including in connection with the School.
- ix. Provide comprehensive logistic services in connection with the Connections provided physical Curriculum materials, including procurement, contracting, storage, fulfillment, and other services required to obtain, deliver, collect and warehouse these materials.
- s. Provision of Computer Technology for School Staff. For all School Staff and the Lead School Administrator, provide and maintain in good working condition the Computer Technology necessary to provide the Education Services. Any Computer Technology provided by Connections will be the exclusive property of Connections or its contractors and will be returned upon the termination of this Agreement or upon the termination of employment, whichever is sooner.
- t. Provision of Computer Technology for Students. Connections may, in its sole discretion, make available to the Students at no additional fee to the District, Computer Technology for each eligible Student who is Enrolled, or to a household, if more than one Student in a household is Enrolled. Any Computer Technology

provided by Connections will be the exclusive property of Connections or its contractors and will be returned upon the termination of this Agreement, or when the Student is no longer Enrolled, whichever is sooner. The Computer Technology may be updated from time to time by Connections. The District shall not be responsible for ensuring the return of Computer Technology. However, to the extent that such Computer Technology is not recovered, Connections may invoice Students, unless prohibited by law, for any Computer Technology not returned.

4. **District Responsibilities:**

- a. **Oversight.** The District shall be responsible for adopting any necessary policies to comply with state law in oversight of the School and to promptly inform Connections of any obligations or deficiencies in the School's operations and to provide oversight of the Education Program in a manner that fully implements the Education Program as designed by Connections.
 - i. **Delegation of Responsibility and Rescission Procedure.** In order to ensure the quality and integrity of the Education Program and to fully leverage Connections experience providing comprehensive support services to full time K-12 virtual schools, the District delegates to Connections ("Delegation of Responsibility") all responsibilities associated with (i) the recruiting, employing, training, supervision, oversight, discipline and dismissal of School Staff; and (ii) performing Operational Services. In connection with the Delegation of Responsibility, Connections will support the District in all aspects of School operations consistent with the Delegation of Responsibility and as otherwise reasonably requested by the District.
 - ii. The Delegation of Responsibility, may be rescinded in whole or in part by the District, acting through the adoption of a resolution by a properly constituted Board of Education, setting forth the parameters of such rescission. Any Board of Education decision to rescind the Delegation of Responsibility whether in whole or in part, shall not take effect any earlier than the close of the Academic Year in which such rescission is communicated to Connections.
 - iii. The District shall perform any responsibility delegated to Connections under the terms of this Agreement, to the extent it is in conflict with or nullified by any applicable law, provided, however, Connections will support the District in its performance of such responsibilities to the extent reasonably requested by the District.
 - iv. The District shall perform any responsibility not explicitly delegated to Connections under the terms of this Agreement that would otherwise be the responsibility of the District, under applicable law, unless and until, such responsibility is delegated to Connections pursuant to the Delegation of Responsibility.
- b. **Abide by Established Protocols, Policies and Procedures.** Abide by all Connections established protocols, policies and procedures in connection with the

Core Education Program, including requirements for Course completion (including awarding of transfer credit where applicable), grade attainment and attendance in order to meet minimum requirements for graduation with a School diploma, and return and recovery policies, in connection with the use of Connections provided Computer Technology and Instructional Materials.

- c. Diplomas. Grant diplomas based on attainment of minimum requirements for graduation with a School diploma.
- d. Insurance. Except for that insurance identified in Exhibit A, obtain and maintain the liability, casualty, and property insurance for any services provided by the District for the benefit of the School, any facility leased directly and/or managed by the District and any capital equipment or furniture and fixtures owned by the District. To the extent permitted by applicable law, Connections and its parent company, Connections Education LLC, shall be added as additional named insureds on all policies of insurance obtained and maintained by and for the benefit of the School.
- e. Reporting. File all information directly with the State of Colorado or other regulatory authorities associated with the operation of the School as required by any applicable state or federal law. Connections will support the District in the preparation of such reports, including the annual financial and accounting report, to the extent reasonably requested by the District. In connection with the District's reporting responsibilities, the District shall:
 - i. Timely inform Connections of the information that is required under any reporting obligation in order to comply with the reporting requirements, including any required format or means of delivery (for example, Student Record fields and the required electronic format suitable for transferring such information in the District's or other regulatory authorities' records) at least thirty (30) days prior to any due date;
 - ii. Report Students for all funding sources for which such Students are eligible in the same manner as the District reports and receives money for other students enrolled in the District;
 - iii. Upon request by Connections, provide Connections with access to (1) any and all reports filed by the District associated with the operation of the School, including, but not limited to, Student reports filed with all funding sources; and (2) the District's student information system or other data repository in order to enable Connections to independently verify the accuracy of information contained in any District prepared report or other analysis prepared by or distributed by the District; and
 - iv. Correct any error in any such reports or analyses and submit the corrected report or other analyses to all appropriate third-parties within fifteen (15) days of receipt of documentation from Connections evidencing the error.
- f. Standardized Testing Administration. While Connections shall be responsible for administering any required standardized tests at its own cost, the District shall

assist Connections in locating appropriate testing locations and in administering any required tests to students resident in the District.

- g. Collection of Funds due from other Districts. The District shall use reasonable efforts to assist in the collection of any amounts that are due from other school districts, but shall not be responsible for any amounts that fail to be collected.
- h. Student Data Transfer/Access Requests. To the extent the District requests Connections to provide any District employee or third-party contractor with access to Student personally identifiable information, or to transfer such Student personally identifiable information outside of Connexus to a third party, the District is responsible for determining that such request for access or transfer is compliant with applicable local or District policies and procedures, as well as state or federal law, and for informing Connections of any restrictions Connections must follow in providing such requested access or transfer. The District shall hold Connections harmless and indemnify Connections pursuant to section 18 (Indemnification by District) below.
- i. District Coordinator. The District shall designate one individual who shall serve as District Coordinator and shall be the primary interface with the Lead School Administrator and other Connections staff for the provision of services under this Agreement.

5. **Facilitation of District Oversight Responsibilities:**

- a. Program Oversight. Pursuant to the terms of this Agreement and as a part of the Connections' fee for Educational Services and Connections' Program responsibilities, Connections shall make key personnel reasonably available for advisement and consultation with representatives of the District who are responsible for managing or overseeing the Program. Except to the extent otherwise agreed, all costs, including reasonable hospitality related expenses, incurred in connection with Program Oversight, shall be paid out of the fee for Educational Services paid to Connections.
- b. District Oversight Assistance Program. In furtherance of the District's oversight responsibilities referenced in Section 4. a. above, during each Academic Year during the Term, including any summer school session, Connections will provide to the District for use by students enrolled in District schools other than Colorado Connections Academy, course enrollments through International Connections Academy ("iNaCA") at a fifteen percent (15%) discount off of the list price for such supplemental courses. In addition, Connections will provide a fifteen percent (15%) discount off of the list price for GradPoint® seat licenses.

6. **Grant of Rights and Access:**

- a. Marketing Leads License. Connections grants to the District a nonexclusive, non-transferrable, non-assignable, royalty-free, limited license during the term of this Agreement to the Marketing Leads developed and/or collected in support of the School for use in marketing the School within the geographic boundaries of the state of Colorado. As an express condition to the license grant herein, (i) to the extent the District performs any marketing activities in support of the School,

independent of the marketing activities performed by Connections pursuant to Section 3 r. viii. above; or (ii) the District incorporates the Connections Academy trademark in the School name, or other Connections trademarks are used in association with the School, all such District independent marketing efforts, including, but not limited to, marketing materials, slogans, ad copy (audio, video, or print), are subject to Connections preapproval. This license expires upon expiration of the Term. All rights of use not specifically licensed herein are retained by Connections and nothing in this Section shall be interpreted to limit Connections' rights of use or rights of ownership in such Marketing Leads or to confer title or ownership (joint or several) in such Marketing Leads to the District or the School.

- b. License to Access Connexus and Instructional Materials. Connections hereby grants to the District a non-exclusive, nontransferable, royalty-free, limited license during the Term of the Agreement for Authorized Users to access and use Connexus[®] and the Content and Instructional Materials contained in Connexus[®] in connection with the receipt of Educational Products and Services hereunder (collectively the "Licensed Collateral"). The Authorized Users right to access and use the Licensed Collateral is solely for the intended purpose for which such access is granted and is subject to Connections' Intellectual Property provisions set forth in Sections 12 and 13 below. Connections may update the features and functions of Connexus[®] from time to time. Any right to use the Content and Instructional Materials shall be solely for the applicable Course for which a Student is Enrolled or that an Authorized User is otherwise authorized to access.
- c. Permitted and Prohibited Uses. All rights not expressly granted to the District and Authorized Users under the terms of this Agreement are reserved to Connections, and any uses of the Licensed Collateral by the District and Authorized Users not expressly permitted in the Agreement are strictly prohibited.

Specifically, unless otherwise authorized by Connections in furtherance of the delivery of Education Program related services, District will not, and will not permit Authorized Users, District's employees or agents or any third party to: (i) access the Content and Instructional Materials or Connexus[®], except in connection with Courses for which a Student is enrolled; (ii) use the Curriculum, Content and Instructional Materials except in strict compliance with the Agreement and the Terms of Use; (iii) copy, reproduce, modify, alter, transfer, transmit, perform, publish, display, sub-license, distribute, circulate provide access to, rent, or create Derivative Works from the Content and Instructional Materials or any portion thereof; (iv) decompile, reverse engineer, disassemble, or otherwise determine or attempt to determine the source code (or the underlying ideas, algorithms, structure or organization) of the Content and Instructional Materials or of Connexus[®]; (v) upload files that contain viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software or programs that may damage the operation of Connexus[®]; (vi) take any actions, whether intentional or unintentional, that may circumvent, disable, damage or impair the control or security systems of Connexus[®] or the Content and Instructional Materials, nor allow or assist a third party to do so; (vii) use the Content and Instructional Materials in a manner that

- disparages Connexus[®], Content, Instructional Materials, Connections or its content providers, or in any manner that Connections may, in its sole discretion, deem inappropriate; or (viii) disclose Log-In Information (as defined in Section 6.e. below) or permit access to Connexus[®] and/or the Content and Instructional Materials by unauthorized persons using an Authorized User's Log-In Information.
- d. Usage Guidelines and Rules of Conduct. Authorized Users may use the Licensed Collateral for bona fide educational and other contracted-for purposes only. The District will comply and assure compliance by Authorized Users under the District's control, including District employee's and other third-parties, with Terms of Use of Connexus[®], Privacy Policy, and other applicable Connections policies, as may be updated from time to time by Connections in its sole discretion. The Privacy Policy and Terms of Use are posted on the Website and are accessible from the Connexus[®] login page. The District acknowledges that Connections may also institute basic rules for academic and personal conduct for Authorized Users' use of the Licensed Collateral, and that Connections will enforce those rules in its sole discretion, including terminating access for Authorized Users in the event of their failure to adhere to those rules. Included in the rules of conduct shall be prohibitions against any Authorized User's attempt to make inappropriate communication or contact with any other Authorized Users through Connexus[®], as well as, hacking, viral infection, or other technical attempts to gain unauthorized access to or cause damage to Connexus[®]. The District shall immediately provide Connections with written notice of any unauthorized use or distribution of the Content, Instructional Materials or Education Program of which the District becomes aware and shall take all necessary steps to ensure that such unauthorized use or distribution is terminated.
- e. Security and Use of Passwords. Each Authorized User will have a user name and password for the purpose of accessing Connexus[®] and the Content and Instructional Materials (the "Log-In Information"). Authorized Users must keep all Log-In Information strictly confidential, and all Log-In Information may be used only by the assigned Authorized User. Authorized Users are responsible for maintaining the security and confidentiality of all Log-In Information, and for preventing access to Connexus[®] and/or the Content and Instructional Materials by unauthorized persons using an Authorized User's Log-In Information. Unauthorized access to or use of Connexus[®] and/or the Content and Instructional Materials by someone using an Authorized User's Log-In information may be attributed to such Authorized User.
- f. Availability and Support. Connections strives to provide access to Connexus 24 hours per day, 7 days per week; however, it is anticipated that there will be periodic system interruptions due to occasional computer technology failures, system maintenance and updates, and/or internet provider service interruptions.
- g. Communications from Connections. The District acknowledges and agrees that Connections may periodically contact Authorized Users in relation to Connections carrying out its obligations set forth in this Agreement, as well as to inform Caretakers and Students of educational opportunities related to such Students academic pursuits such as summer school programs and clubs and other

extracurricular activities, including sports program opportunities. Unless prohibited by law, the District specifically consents to such communications being delivered to Caretakers and Students via the Connexus webmail portal and message boards, personal email to the extent such information is available, and direct mail. Telephonic communications shall be limited to School related communications of an immediate nature that impact a Student's access to the Education Program or are related to the Students' academic participation and/or academic achievement. By accessing the Licensed Collateral, Authorized Users will be deemed to have also consented to receive such communications.

7. **Representation Regarding Non-discrimination:** Neither Connections nor the District will discriminate against any person on the basis of race, creed, color, sex, national origin, religion, ancestry, sexual orientation or disability, or any other basis prohibited by federal or state law.
8. **Health and Safety:** Connections will develop training and policies related to the following standards regarding health and safety:
 - a. Reporting child abuse or neglect where there is reasonable basis for suspecting such abuse or neglect is occurring, as required by state law;
 - b. Adopting policies prohibiting the use of drugs, alcohol, weapons and tobacco in school operated facilities or at school sponsored events;
 - c. Adopting policies prohibiting bullying, sexual harassment, harassment, and other social behaviors prohibited under applicable law; and
 - d. Complying with all state immunization law.
9. **Enrollment Minimum and Maximum:** Connections shall not be responsible for delivering Educational Products and Services under this Agreement if less one hundred fifty (150) Students are Enrolled as of the first scheduled day of instruction according to the School Calendar. There shall be no maximum number of Students eligible to be Enrolled in the School, unless otherwise required by law.
10. **Pricing and Payment Terms:**
 - a. **Payments.** For each Academic Year during the Term, the District shall pay Connections as follows: an amount equal to 95% of the applicable online per pupil operating revenues as provided in the Public School Finance Act of 1994 or successor act (Online PPR) paid to the District from the Colorado Department of Education (CDE) for Students enrolled in the School as of October 1, or such other date or dates as may be established by law or regulation on which per pupil revenues are calculated, plus 95% of any Title I funding, any state Exceptional Children's Educational Act (ECEA) funding, and any other state or federal revenues received by the District that are directly attributable to the Students enrolled in the School (including Special Needs Students). The District shall provide an accounting for the funds that it receives, including such information concerning funding received for Students with special needs sufficient to determine if any amounts are due to Connections under the terms of section 3 f. ii. Payment

shall be made on October 15 or within thirty (30) days of receipt of funds by the District if later. Funds shall also be subject to adjustment and reimbursement to CDE or the District by Connections as provided herein should the District's funding be subject to a rescission or should Connections' enrollment count in any year be audited and reduced by CDE. Any excess funds remitted to or received by Connections shall be returned to the District within thirty (30) days of the District providing Connections with any amounts due along with accompanying support for the basis for the charge or shall be remitted to CDE within any time period that it may specify.

b. Invoicing.

- i. Connections shall invoice the District monthly, or on such schedule as is consistent with the District's receipt of funding from the state, but in no event less frequently than on February 1 and June 1 each year for the Per Pupil Funding. The District shall remit payment to Connections for these invoices within thirty (30) days of receipt. Any other payments due to Connections by District for funds received for additional state or federal revenues or receipts from Districts for Special Needs Students shall be paid within thirty (30) days of receipt of such funds by District. The Parties may establish alternate payment arrangements by mutual agreement. In no event shall failure by Connections to invoice the District constitute an abrogation of the District's obligation to make payment to Connections as provided for in Section 10 (b).
 - ii. Connections and the District may charge interest at the rate of one-half percent (0.5%) per month for any invoices paid more than sixty (60) days after the date of invoice, unless such failure to pay is the result of: (i) funds being withheld from the District due to a failure by Connections to perform under the terms of this Agreement; or (ii) failure by the State of Colorado to timely disburse funds due to the District, in which event the District shall use its best efforts to cause the funds to be disbursed and the shortfall will be paid as soon as the funds are received; or (iii) the District or Connections disputes any charges. The District or Connections shall notify the other of any dispute and the basis for any dispute within five (5) days of receipt of the invoice and shall work to resolve the dispute within thirty (30) days. All amounts other than any amounts in dispute shall be paid according to the terms herein.
- c. State Audit Adjustments. To the extent that any adjustments as a result of a state audit are the result of Connections' failure to adequately perform its responsibilities under this Agreement, Connections will be required to either: (i) return funds to the School in the amount determined as a result of a State audit; or (ii) to the extent that funds are withheld from future payments to the School, reduce amounts invoiced to the School by the amount funding is withheld.
- d. Termination of District's Payment Obligations. The funding for Connections shall constitute a current expenditure of the District. The District's funding obligation under this Agreement will be from year-to-year only and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation of the

District. The District's obligation to fund Connections shall terminate upon non-appropriation of funds for that purpose by CDE for any fiscal year, any provision of this Agreement to the contrary notwithstanding.

- e. District Provided Services. Connections may contract with the District for the direct purchase of District services that can be provided within the boundaries of the District, including, without limitation, supervision of Students who are engaged in Connections sponsored activities in the District. The amount to be paid by Connections for any District provided service shall be the actual cost incurred by the District in providing the services and shall be remitted to the District by Connections within thirty (30) days of invoice.
 - f. Sales Tax. The District shall provide Connections with documentation evidencing the District's tax exempt status. To the extent that the District is not tax exempt, the District shall be responsible for federal, state, or local taxes assessed, if any, based on the Educational Products and Services provided to the District under this Agreement.
11. **Internet Access:** Each Student (or each household as applicable) shall be required to have access to the Internet for a sufficient amount of time to complete the instructional program (including assignments, online communication and collaboration, research and access to supplemental online resources). Students will be advised that high-speed access will provide for optimal participation.

12. **Trademarks:**

- a. Connections and its Affiliates are the owners of various trademarks, service marks, logos, or trade names used in its business of providing Educational Products and Services. Connections trademarks can be found at: <http://www.connectionsacademy.com/Libraries/PDFs/CACCommonLawTrademarks.pdf> (collectively, the "Licensed Marks"). Connections grants to the District a non-exclusive, non-transferable, royalty-free sub-license to use the Licensed Marks during the term of this Agreement solely in connection with the performance of this Agreement and subject to pre-approval of such use by Connections. The District agrees to use the Licensed Marks in accordance with any trademark usage guidelines provided by Connections, the most up-to-date version of which can be found at: <http://www.connectionsacademy.com/terms-of-use/trademark-guidelines.aspx>. Connections retains all right, title and interest in and to the Licensed Marks and any related proprietary rights not expressly granted to the District hereunder. All goodwill attributable to the Licensed Marks will inure exclusively to the benefit of Connections. Upon execution by the parties, this Agreement shall be deemed written consent for use of the trade name "Colorado Connections Academy" by the District during the term of the Agreement.
- b. Upon termination of this Agreement, the District's license to use the Licensed Marks, including the trade name "Colorado Connections Academy" shall immediately terminate. The School agrees that within thirty (30) calendar days from the date of termination, all references to "Connections Academy", and any other Licensed Marks shall be removed from the School's trade name, as well as

from signage, stationary, website, marketing materials and any other material or location it appears.

13. Intellectual Property:

- a. Limitations on Use. Connexus[®] and all technology, programs, services, and materials hosted thereon, the Curriculum, all tangible and intangible education materials, all Connections Education LLC trademarks and copyrighted works, and the trade name “Colorado Connections Academy” are the intellectual property of Connections’ parent company, Connections Education LLC. The District’s right to use and benefit from said intellectual property is limited to its license rights set forth in this Agreement and shall terminate automatically with the termination or expiration of this Agreement.
- b. No Sale. Nothing in this Agreement shall be interpreted to be a sale or transfer of ownership interest in Intellectual Property from Connections or Connections Education LLC to the District, School Staff, Students, Caretakers, or Learning Coaches.
- c. No Use of School Funds to Develop or Procure. No School funds shall be used by Connections or Connections Education LLC to develop or procure Courses or Content or Instructional Materials or improvements to Connexus[®], provided, however, any District funds paid to Connections for provision of the Educational Products and Services hereunder, once paid, shall not be deemed to be District funds.
- d. Procurement of Equipment, Materials and Supplies. In the event Connections uses School funds to procure on the Schools behalf equipment, materials and/or supplies, Connections agrees not to include any added fees or charges with the cost of equipment, materials and supplies purchased from third parties and further agrees that upon receipt of payment from the school for such equipment, materials and supplies, such equipment, materials and supplies shall be and remain the property of the School.
- e. Derivative Works. Any works created by the School Staff and derived from Connections Education LLC’s Intellectual Property shall be deemed the property of Connections Education LLC, and the School agrees to extend all reasonable and appropriate measures to assist Connections Education LLC in securing and perfecting its ownership interest in such derivative works.
- f. Aggregated Data. Student specific data, including corresponding Caretaker data, is the property of the School, Student and/or the Caretaker ("Student Information"), Connections will not use any such School owned Student Information for any non-school related purpose. Connections may freely aggregate School owned Student Information so long as such aggregated use does not reveal identifying characteristics that would enable a third party to determine the identity of any individual Student, including that Student's Caretaker. All such aggregated data shall be the property of Connections and Connections may identify its source as being the Colorado Connections Academy without the consent of the District. In

addition, Connections shall, from time to time, provide to the School reports in an electronic format requested by the School to the extent Connections' systems and capabilities permit. Upon receipt of such request from the District, Connections will work with the District to formulate queries, formats and designs that will generate Student Information in a manner most useful to the District, based on the District's objectives and Connections' existing capabilities.

14. **Confidentiality:**

- a. **Confidential Information.** The receiving party shall use the Confidential Information of the disclosing party only in connection with the furtherance of the business relationship between the parties, and the receiving party shall make no further use, in whole or in part, of any such Confidential Information. The receiving party agrees not to disclose, deliver or provide access to all or any portion of the disclosing party's Confidential Information to a third party or to permit a third party to inspect, copy, or duplicate the same. The receiving party will disclose Confidential Information only to its employees and agents who have a need to know such Confidential Information in connection with the performance of the Agreement and who are under a written obligation to protect the confidentiality of such Confidential Information. The receiving party will treat the Confidential Information with the same degree of care and confidentiality that the receiving party provides for similar information belonging to the receiving party that the receiving party does not wish disclosed to the public, but not less than holding it in strict confidence.
- b. **Protection of Student Records.** The Parties acknowledge and agree that under Colorado law and under 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act ("FERPA"), and including any regulations promulgated thereunder, each Party has certain obligations with regard to maintaining the security, integrity and confidentiality of "education records", as that term is defined by FERPA, and not rereleasing to third parties who are not authorized under FERPA, and that have no legitimate educational interest for access to Student Records. The Parties designate District and Connections staff, the School Staff, volunteers and third-party providers who are providing any educational or administrative services to the Student, as agents of the District, having a legitimate educational interest and thus entitled to access to educational records. The Parties agree that they shall perform their obligations under this Agreement in compliance with FERPA, and any regulations promulgated thereunder. The Parties shall also maintain Student Records in accordance with any other applicable state, local and federal laws and regulations.
- c. **Exceptions.** The foregoing shall not prevent the receiving party from disclosing Confidential Information that must be disclosed by operation of law, provided (i) the receiving party shall promptly notify the disclosing party of any such request for disclosure in order to allow the disclosing party full opportunity to seek the appropriate protective orders; and (ii) the receiving party complies with any protective order (or equivalent) imposed on such disclosure. It is understood and agreed that this section 14c is not intended to permit the disclosure of education records referenced in 14b, unless permitted by applicable law.

- d. Return of Confidential Information. Except for Student Records, which is addressed in subsections 14 b and c above, the receiving party agrees that it will, within ten (10) days after written request by the disclosing party, return to the disclosing party, or at the option of the disclosing party, destroy and certify in writing the destruction of, all Confidential Information received from the disclosing party, including copies, reproductions, electronic files or any other materials containing Confidential Information.
- e. Remedy for Breach. The parties acknowledge that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information and that a disclosing party shall be entitled, without waiving any other rights or remedies, and without the posting of bond or other equity, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.
15. Protection of Goodwill and Academic Integrity of the Program. The Parties recognize that Connections has invested substantial money and resources in developing a nationally recognized virtual education program under the "Connections Academy" brand and that it has an inherent interest in protecting the goodwill generated in correlation therewith, as well as the academic integrity of the Education Program. The Parties also recognize that the District has a vested interest in Connections protecting such goodwill, as well as the academic integrity of the Education Program in relation with its mission to advance the education interests of its Students. Accordingly, as part of its responsibilities, Connections is hereby authorized to perform ongoing and periodic reviews of School records documenting the manner in which the Program is delivered to Students, including documentation of interaction between Teachers and/or Administrative Staff with Students, Learning Coaches and Caretakers.
16. Term: This Agreement will commence on the Effective Date and be for a five (5) year term, with an expiration date of June 30, 2021 (the "Term "). In the event the parties determine to negotiate a continuation of their relationship beyond the expiration date, and such renewal negotiations continue beyond the expiration date such that Connections continues to provide services consistent with its obligations set forth in this Agreement, without a renewal agreement being executed by and between the parties, the terms and conditions of this Agreement shall continue to govern the relationship of the parties until such time as the parties (i) execute a new agreement or (ii) the parties' relationship terminates without a new agreement being executed.
17. Termination:
- a. Grounds For Early Termination. Unless otherwise renewed or earlier terminated, this Agreement shall terminate immediately upon the expiration of the Term. Any notice of early termination shall take effect at the closing of the last day of the Academic Year, unless otherwise agreed to by the parties or provided for herein. Notices of termination must be made in writing and delivered to the addresses set forth below no later than January 1 of the current Academic Year and shall list all reasons for said early termination. Except as specifically provided for herein, this Agreement can only be terminated before its expiration as follows:

- i. Commencing with the 2017-2018 Academic Year, by the District for any reason, provided, however, that notice of termination shall be given in writing no later than November 1 of the Academic Year in which such termination shall be effective and termination shall not occur prior to the close of the Academic Year in which notice is given. This termination right shall not take effect prior to the close of the second Academic Year that the School is operational, except to the extent the Parties agree otherwise in writing. Notice of termination under this section 17.a.i. shall include a detailed explanation of the reason(s) for termination and shall be subject to the resolution process referenced in section 22.
- ii. By both parties if they agree in writing to the termination;
- iii. By either party if the District's request to operate a multi-district Online School per the state of Colorado's Multi-district Online School certification process is denied. Written notice of termination under this subsection must be provided within thirty (30) days of such party's receipt of such notice;
- iv. Termination by either party, if one party materially breaches this Agreement and fails to cure such breach within thirty (30) days following written notification of such breach from the other party, In the event objectively ascertainable reasonable efforts have been made to effect such cure and the breach at issue does not objectively lend itself to cure within such 30 day period, then such additional time as necessary to complete said cure, but in no event longer than 60 days following written notification of such breach;
- v. Termination by Connections, immediately, if the payments to which Connections is entitled under section 10 of this Agreement are materially reduced as a result of a change in funding provided to the District or applicable laws or regulations impose requirements that are materially different from those previously provided under this Agreement and Connections is unwilling or unable to make the required changes;
- vi. By Connections, if there are unresolvable differences between the Parties relating to what Connections, in its sole discretion, considers to be conduct that reflects materially and unfavorably upon Connections' reputation with respect to the manner in which the District carries out its responsibilities under the terms of this Agreement and Connections provides the District with thirty (30) days written notice of its intent to terminate during which such time the Parties shall work in good faith to alleviate to Connections satisfaction the circumstances giving rise to such unresolvable differences. Termination under this provision may only take effect at the end of the Academic Year in which such notice is given;
- vii. Termination by the District, if the District determines at the end of an Academic Year that the Educational Products and Services set forth in this Agreement do not meet the requirements for a Multidistrict Online School, as defined by applicable law, but only if Connections is unable to cure such deficiency after being given reasonable notice thereof and the opportunity to cure any alleged failure to meet such requirements;

- viii. Termination by either party if the Colorado Department of Education does not certify the District as a certified multi-district Online School authorizer by March 1, 2016;
 - ix. Termination by operation of law, if the School is no longer certified to be operational pursuant to applicable Colorado state law.
- b. Obligations on Termination. In the event this Agreement is terminated by either party for any reason:
- i. Connections shall assist and cooperate with the District in the transition of the Educational Products and Services from Connections to the District or another service provider, so as to minimize the disruption to the Students;
 - ii. Each party will promptly (not later than thirty (30) days after the effective date of termination) return to the other party all Confidential Information, property and material of any type belonging to the other party, including but not limited to, electronic versions, hard copies and reproductions and will not retain copies of any such property or material except as may be expressly permitted in this Agreement or required by applicable law;
 - iii. All access to Connexus[®] and other Educational Products and Services contracted for herein shall be discontinued;
 - iv. Connections obligations as repository of Student Records shall continue in accordance with section 3k above;
 - v. District shall pay Connections all amounts due under this Agreement upon the earlier of either their due dates or thirty (30) days after the effective date of termination;
 - vi. The parties shall continue to be bound by the following provisions of this Agreement, which shall survive termination of this Agreement: sections 3j, 3k, 10, a,b,c, 12- 14, 17 b, 18-23.
18. **Indemnification:**
- a. Indemnification Obligations. Each party shall defend, indemnify, save and hold harmless the other party, its Affiliates, Parent, subsidiaries and its respective directors, officers, agents and employees (together "Indemnified Party") against and from any and all claims, actions, liabilities, costs, expenses, damages, injury or loss (including reasonable attorney's fees) made, brought, incurred, or alleged by any third party ("Claim") to which the Indemnified Party, its Affiliates and their respective directors, officers, agents and employees may be subject to liability by reason of any wrongdoing, misconduct, negligence, willful misconduct or default by the Indemnifying Party, its agents, employees, subcontractors, or assigns in connection with the performance of this Agreement. This indemnification, defense and hold harmless obligation on behalf of Indemnifying Party shall survive the termination of this Agreement.
 - b. Indemnification Procedure. The Indemnified Party will: (a) promptly notify the Indemnifying Party in writing of any claim, loss, damages, liabilities and costs, and for third party claims, (b) allow the Indemnifying Party to control the defense, and

(c) reasonably cooperate with the Indemnifying Party in the defense and any related settlement negotiations. In addition to any defense provided by the Indemnifying Party, the Indemnified Party may, at its expense, retain its own counsel. If the Indemnifying Party does not promptly assume the Indemnified Party's defense against any third party claim, the Indemnified Party reserves the right to undertake its own defense at the Indemnifying Party's expense.

- c. **District's Disclaimer.** As to the District, to the extent applicable, the foregoing indemnification provisions shall be limited by and subject to the rights, defenses and limitations upon liability available to the District pursuant to Article 11, Section 1, and Article X, Section 20, of the Colorado constitution, and/or pursuant to the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., and nothing herein shall be construed to waive or limit any such rights or defenses.
19. **Limitation of Liabilities.** In no event will either party, or such party's Affiliates, directors, officers, employees, or agents, be responsible or liable for the debts, acts or omissions of the other party or such party's Affiliates, directors, officers, employees, or agents.
20. **Notices.** All notices, consents and other communications under this Agreement shall be given in writing and shall be sent by and deemed to have been sufficiently given or served for all purposes as of the date it is delivered by hand, received by overnight courier, or within three (3) business days of being sent by registered or certified mail, postage prepaid to the parties at the following addresses (or to such other address as hereafter may be designated in writing by such party to the other party):
- | | |
|---------------------|---|
| If to Connections: | Connections Education LLC
1001 Fleet Street, 5 th Floor
Baltimore, MD 21202
Attn: Steven Guttentag, President |
| With a copy to: | Connections Education LLC
1001 Fleet Street, 5 th Floor
Baltimore, MD 21202
Attn: School of Legal Affairs |
| If to the District: | Durango School District
201 East 12 th Street
Durango, CO 81301
Attn: Dan Snowberger, Superintendent |
21. **Governing Law.** This Agreement shall be governed and controlled by the laws of the State of Colorado. Any legal actions prosecuted or instituted by any party under this Agreement shall be brought in a court of competent jurisdiction located in the State of Colorado, and each party hereby consents to the jurisdiction and venue of any such courts for such purpose.
22. **Resolution of Disputes.** Any dispute arising out of or relating to this Agreement shall be resolved in accordance with the procedures specified in this subsection 23.

- a. Negotiation. The parties agree to negotiate in good faith all disputes arising out of or relating to the rights and obligations of the Parties, as set forth in this Agreement and/or established by applicable law. Any dispute not resolved within the normal course of business shall be referred to the VP of Schools, for Connections, and the Board Chairperson, for the School or his/her designee, for discussions related to the nature of the dispute and an agreed course of action as to how to resolve the dispute or to other such persons within the organization of Connections and the School as the Parties mutually deem appropriate.
- b. Mediation. In the event the parties are unable to fully resolve a dispute through negotiation, each Party agrees to submit all unresolved disputes to nonbinding mediation pursuant to processes and procedures mutually agreed upon by the Parties. In the event the Parties are unable to agree to such processes and procedures, the Parties agree to submit the matter to Board Counsel of record, or other such third party agreed upon by the Parties, who will establish the processes and procedures by which such unresolved disputes will be mediated.
- c. Confidentiality. The Parties agree to treat all discussions and sharing of documents related to this section as confidential and not subject to disclosure to any third party to the extent permissible by law, except as consented to by the disclosing Party. In the event the Parties are unable to resolve such dispute through nonbinding mediation, to the extent such dispute remains unresolved, each Party, upon providing the other party ten (10) calendar days' notice of its intent to do so, may pursue their respective contractual, administrative, legal and/or equitable remedies available to them in order to fully resolve such dispute.

23. Miscellaneous.

- a. Severability. If any provision of this Agreement is held to be invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this Agreement. If any provision of this Agreement shall be or become in violation of any federal, state, or local law, such provision shall be considered null and void, and all other provisions shall remain in full force and effect.
- b. Successors and Assigns. The terms and provisions of this Agreement shall be assignable by either party only with the prior written permission of the other, which consent shall not be unreasonably withheld; provided that a change in control of Connections or its managing member, notice of which shall be provided by Connections to the District, shall not be deemed a violation of this Agreement.
- c. Complete Agreement; Modification and Waiver. This Agreement constitutes the entire agreement between the parties with respect to the matter contained herein and supersedes all prior and contemporaneous agreements, warranties and understandings of the parties. There are no agreements, representations or warranties of any kind except as expressly set forth in this Agreement. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both parties. No waiver of any provision of this Agreement

will be effective unless it is in writing and signed by the party to be charged with such modification, and no such waiver will constitute a waiver of any other provision(s) or of the same provision on another occasion.

- d. Force Majeure. If any circumstance should occur that is not anticipated or is beyond the control of a party or that delays or renders impossible or impracticable performance as to the obligations of such party, the party's obligation to perform such services shall be postponed for a period equal to the time during which such circumstance shall extend, or, if such performance has been rendered impossible by such circumstance, shall be cancelled.
- e. No Third party Rights. This Agreement is made for the sole benefit of the parties. Except as otherwise expressly provided, nothing in this Agreement shall create or be deemed to create a relationship among the parties or any of them, and any third party, including a relationship in the nature of a third party beneficiary or fiduciary.
- f. Professional Fees and Expenses. Each party shall bear its own expenses for legal, accounting, and other fees or expenses in connection with the negotiation of this Agreement.
- g. Counterparts. This Agreement may be signed in counterparts, which shall together constitute the signed original Agreement.
- h. Compliance with Laws, Policies, Procedures, and Rules. Each party will comply with all applicable federal and state laws and regulations including all of the specific requirements of applicable local ordinances and the School's policies whether or not specifically listed in this Agreement.
- i. Interpretation of Agreement. The parties hereto acknowledge and agree that this Agreement has been negotiated at arm's length and between parties equally sophisticated and knowledgeable in the subject matter dealt with in this Agreement. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and this Agreement shall be interpreted in a reasonable manner to affect the intent of the parties as set forth in this Agreement.
- j. Headings; Exhibits. The section headings contained herein are for convenience only and shall not in any way affect the interpretation or enforceability of any provision of this Agreement. All schedules and exhibits to this Agreement are incorporated herein and shall be deemed a part of this Agreement as fully as if set forth in the body hereof.
- k. Electronic Signatures. This Agreement and related documents may be accepted in electronic form (e.g., by scanned copy of the signed document, an electronic or digital signature or other means of demonstrating assent) and each party's acceptance will be deemed binding on the parties. Each party acknowledges and agrees that it will not contest the validity or enforceability of this Agreement and related documents, including under any applicable statute of frauds, because they were accepted or signed in electronic form. Each party further acknowledges and agrees that it will not contest the validity or enforceability of a signed scanned PDF or facsimile copy of this Agreement and related documents on the basis that it lacks

an original handwritten signature. Facsimile and scanned PDF signatures shall be considered valid signatures as of the date hereof. Computer maintained records of this Agreement and related documents when produced in hard copy form shall constitute business records and shall have the same validity as any other generally recognized business records.

- m. Status and Relationship of the Parties. Connections is a limited liability company organized under the laws of Colorado, and is not a division or a part of the District. The District is an independent government body authorized by the State of Colorado and is not a division or part of Connections. The Parties intend that the relationship created by this Agreement is that of an independent contractor and not employer-employee. Except as expressly provided in this Agreement, no agent or employee of Connections shall be deemed to be an agent or employee of the District. Connections shall be solely responsible for its acts and the acts of its agents, employees and subcontractors, and the District shall be solely responsible for its acts and the acts of its agents, employees and subcontractors. The relationship between Connections and the District is based solely on the terms of this Agreement, and the terms and conditions of any other written agreement between Connections and the District.

Agreed to by:

DURANGO SCHOOL DISTRICT

By: DocuSigned by:
Dan Snowberger
E2F51F093A0944E...

Title: superintendent of schools

CONNECTIONS EDUCATION LLC

By: DocuSigned by:
Steven Guttentag
9E66CCB82A88455...

Title: President

INDEX OF DEFINED TERMS

“Academic Year” shall mean the school year as defined by the School Calendar under which the School operates.

“Administrative Staff” means any and all individuals employed by or otherwise providing services for or on behalf of the education program operated by the School.

“Affiliates” means any entity controlling, controlled by or under common control with another entity. With respect to Connections, Affiliate shall also include Pearson PLC and its Affiliates. For the purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct the management and policies of an entity whether through the ownership of voting securities, registered capital, contract or otherwise.

“Authorizer” shall mean the agency or other governmental entity authorized by law in the state in which the School is contracting with Connections under the terms of the Agreement to provide Educational Products and Services (as defined below).

“Authorized Users” shall mean the Students, Caretakers, Teachers, Instructional Aides, Administrative Staff, Learning Coaches, and District personnel who are authorized to access Connexus[®], the Content, Instructional Materials and Courses pursuant to the terms of this Agreement.

“Caretaker” shall mean the parent(s), legal guardian(s) or another individual designated by a parent or legal guardian as a Student’s Caretaker.

“Confidential Information” shall mean proprietary business, technical and financial information of each of the parties, including for example and without limitation, each party’s respective information concerning: (a) business strategy and operations such as business plans, methods, marketing strategies, outreach plans and sales information, pricing information and customer and prospect lists, the identities and locations of vendors and consultants providing services or materials to or on behalf of the disclosing party; (b) product development such as product designs and concepts; (c) financial information such as budget and expense information, economic models, pricing, cost and sales data, operating and other financial reports and analysis; (d) human resource information such as compensation policies and schedules, employee recruiting and retention plans, organization charts and personnel data; (e) unpublished educational content, curricula, teaching outlines, lesson plans, testing processes and procedures; (f) Student Records and other student-related or parent-related personal information; (g) the terms of this Agreement, (h) login and password information for Connexus[®]; (i) technical information such as development methods, computer software, research, inventions, the design and operation of Connexus[®]; and (j) other similar non-public information that is furnished, disclosed or transmitted to the receiving party or to which the receiving party is otherwise given access by the disclosing party, orally, in written form, in any type of storage medium, or otherwise. Confidential Information, in whatever form provided, shall remain the exclusive property of the disclosing party at all times, and the parties hereby acknowledge and agree that all such Confidential Information of a party are its trade secrets. Except as specifically provided for herein, nothing contained in this Agreement shall be construed as granting or conferring any rights in any Confidential Information disclosed to the receiving party, by license or otherwise.

"Connexus®" means the website or Education Management System (also sometimes referred to as Learning Management System, EMS or LMS) with the URL <http://www.Connexus.com>, or such other URL as Connections or its Affiliates may designate from time to time, through which Authorized Users access Connections Content via a secure, password protected website. The features and functions of Connexus® may be modified and/or updated from time to time by Connections. Access to Connexus® is governed by the Terms of Use located at <https://www.Connexus.com/public/termsOfUse.html> and defined below.

"Content" means the components of a Course and/or SDR (as each is defined below) licensed, designed, developed, owned or provided by Connections and its third party content partners and delivered in an online format through Connexus® (as defined above) or in an offline format (textbooks and other materials) to teach students in various subjects in grades K–12 and/or to deliver resources in connection with the Services (defined below). Content may include the courseware, data, documentation, text, audio, video, graphics, animation, drawings, programming, icons, images, pictures and charts, Teachlet® tutorials and LiveLesson® sessions. Connections reserves the right to add Content, withdraw Content, modify and/or offer substitute Content, in its sole discretion, provided that the School will receive reasonable notification concerning any substitution or withdrawal that is substantial.

Course(s)" shall be comprised of a set of lessons and assessments, including Instructional Materials, that shall meet the educational content or other standards established by the State of Colorado in order to be recognized for high school credit in grades 9-12 and/or for meeting educational requirements in grades K-8, as the case may be.

"Curriculum" means a program of instruction provided by Connections, which includes Content and Instructional Materials accessed primarily through Connexus®, that, together with Teacher provider additions and/or modifications, shall meet the educational content or other standards established by the State of Colorado in order to be recognized for high school credit in grades 9-12 or for meeting educational requirements in grades K-8.

"Curriculum Guide" means the publication which sets forth the list of Courses offered by Connections during a particular Academic Year and may sometimes be referred to in this Agreement as a "Program Guide".

"Derivative Works" include any translation, editorial revision, annotation, elaboration, or other modification, correction, addition, enhancement, extension, condensation, upgrade, improvement, compilation, abridgement or other form in which the Content or Instructional Materials or other Licensed Collateral may be recast, transformed or adapted, including but not limited to all forms in which such Derivative Works may or may not infringe any of the copyrights in the Content or Instructional Materials.

"Destroyed" means at minimum removing personally identifiable information from the Student Record stored on Connections' production systems.

"District Coordinator" shall mean a staff person employed by the District who shall administer and monitor the performance of Connections as specified in this Agreement and provide other such services identified in Section 4 i.

“Education Program” shall mean the collective offering of products, licenses and services set forth in Section 3 of this Agreement.

"FERPA" means the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232 (g), as amended from time to time.

"Instructional Aide(s)" means any and all individuals who are involved in supporting, facilitating or assisting in the provision of instruction, assessment and/or other Services to Students.

“Intellectual Property” means collectively, rights under patent, trademark, copyright and trade secret laws, and any other intellectual property or proprietary rights recognized in any country or jurisdiction worldwide, now or in the future, including but not limited to, moral rights, industrial design rights and similar rights, and shall in all cases include Marketing Leads and materials and other related collateral developed by Connections, regardless of whether such data, materials and collateral are developed specifically for the School.

“Learning Coach” shall mean a Caretaker of the Student or another adult specifically designated by the Student’s Caretaker, or the Student where over 18 or emancipated, who will perform the responsibilities as defined in the Caretaker Acknowledgement, Designated Learning Coach Agreement or Eligible Student Acknowledgement, respectively, and the School Handbook, which shall be subject to the review and approval annually by the School Board. Learning Coaches are not employees or contractors of either the School or Connections; shall not receive any compensation for their services from either Connections or the School Board; and shall look solely to the Caretaker to collect any alleged agreed to compensation. Learning Coaches shall not fall within the definition of “Instructional Aides”.

“Licensed Collateral” shall mean Connexus® and all technology, programs, services, and materials hosted thereon to which Customer is granted access, the Curriculum, all tangible and intangible education materials and other proprietary and copyright protected works to which Customer is granted a right of use (whether in digital, print or both and including third party content contained therein or linked to therefrom), all Connections Education LLC trademarks, and the trade name “Colorado Connections Academy @ Durango”.

“Marketing Leads” shall mean the Caretaker names, contact information, demographic and other information developed and collected through Connections marketing efforts (including but not limited to Public Information Campaigns defined below) at any time before, during or after the initial or any renewal term of this Agreement, including leads, developed and collected through radio, online and television advertisements, online and in person information sessions, the Connections Academy website, surveys and petition gathering efforts, and other marketing activities performed on behalf of Connections and/or the School.

“Marketplace” shall mean each of United States and its territories and lawful possessions (individually and in the aggregate).

“Minimum Guaranteed Payment” shall mean \$100,000.

“Multi-district Online School” shall mean an Online School that serves a student population drawn from two or more school districts.

“Permanent Student Record” shall mean those records required to be maintained by the District in accordance with Colorado law, which shall include, but may not be limited to: attendance records; test, evaluation and statewide assessment records; immunization records as required by sections 25-4-902-903 C.R.S.; records concerning the education of students with disabilities required to be collected and maintained by state or federal law; such other records as directed by the District to be included as part of the Permanent Student Record.

“Public Information Campaigns” or “PIC” shall mean such activities as marketing and outreach efforts by offline media advertising, online advertising, direct mail, telephone calls, traditional public relations, and other advertising efforts, as well as online and in person information sessions, managing social media messaging, etc.

“Privacy Policy” means that certain statement of Connections’ practices for handling personally identifiable and non-personally identifiable information gathered by Connections through Connexus® or any web site maintained by Connections from time to time.

“Program Guide” shall have that meaning ascribed to “Curriculum Guide,” defined above.

“Related Services” shall mean services related to the provision of speech therapy, occupational therapy, physical therapy, counseling, social skill development, psycho-educational evaluations, closed captioning, sign language interpreting, transition and job coaching, academic support for the vision and hearing impaired, adapted physical education, assistive technology, and other services of a similar nature.

“School Calendar” shall be the days when the Educational Products and Services under this Agreement will be delivered to Students, as defined by the School Handbook. Connections will provide Educational Products and Services on those days established to be the School Calendar for the Academic Year, except that Students may continue to report attendance during scheduled school holidays to the extent permitted under State of Colorado law. The School Calendar for each Academic Year is subject to the prior approval of the School Board, taking into account all reasonable comments and suggestion by Connections, and shall meet any regulatory requirements for days and hours of instruction required by law or regulation.

“School Handbook” shall mean the set of policies, rules and guidelines that are to be followed by Students and their Caretakers.

“SDR” means Service Delivery Resource and relates to any tools, instructions, assessments or other support materials used in the delivery of Services, either through Connexus® or otherwise.

“Special Education Director” is that person employed to oversee the Special Education Services per Section 3 f It is the Special Education Director’s responsibility to keep informed of (and to inform Connections of) any state legislative or regulatory enactments that impact the provision of Special Education Services, as well as to supervise the special education Teachers and implement a Connections approved model for special education instruction.

“Special Education Services” shall mean all necessary special education programs and services, including the development and implementation of IEPs and Section 504 plans,

handling administrative proceedings and specialized services, submitting state or federal reports, applying for and administering supplemental funding, providing other Related Services and all other administrative services associated with the delivery of services to Special Needs Students.

“Special Needs Students” shall mean Students (as hereinafter defined) who have been identified as disabled under the Federal Individuals with Disabilities Education Act, as amended (“IDEA”) or Section 504 of the Federal Rehabilitation Act of 1973.

"Student" means any person who is Enrolled in the School.

“Student Records” shall mean those “educational records,” as defined in subsection (a)(4)(A) of FERPA (as defined above), which the School or Connections is required to retain in accordance with state law.

“Teacher” means any and all educators (including Connections Teachers) involved in providing instruction, assessment and/or other educational support of Students pursuant to the terms of this Agreement.

“Teacher Learning Center”- means a facility in which a consistent group of teachers and administrators working in connection with providing services to the School in accordance with the terms of this Agreement.

“Term” shall have that meaning set forth in section 16.

“Terms of Use” means certain rules governing how Authorized Users may and may not use Connexus® and any Content and Instructional Materials accessible through Connexus®. The most current version is located at <https://www.Connexus®.com/public/termsofuse.html>

“Website” means the Connections website with the URL <http://www.connectionsacademy.com/home.aspx> and any subpages connected thereto.