

## **CONTRACT AMENDMENT NUMBER 3**

### **I. PARTIES**

This Amendment to the above-referenced Original Contract (hereinafter called the Contract) is entered into by and between Amplify Education, Inc., 55 Washington Street, Suite 900, Brooklyn, NY 11201-1071, (hereinafter called Contractor), and the State of Colorado (hereinafter called the State) acting by and through the Colorado Department of Education (hereinafter called CDE), 201 East Colfax, Denver, Colorado 80203.

### **II. EFFECTIVE DATE AND ENFORCEABILITY**

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the Effective Date). The State shall not be liable to pay or reimburse Contractor for any performance hereunder including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

### **III. FACTUAL RECITALS**

The Parties entered into the Contract to implement the use of an early literacy assessment tool that teachers may use to conduct real-time assessments of the reading skill levels of students enrolled in kindergarten through third grades and, based on the assessment results generate intervention plans and materials. The purpose of the amendment is to provide for additional training sessions and add funds to cover the training costs for State Fiscal Year 2016.

### **IV. CONSIDERATION-COLORADO SPECIAL PROVISIONS**

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Amendment. The Parties agree to replacing the Colorado Special Provisions with the most recent version (if such have been updated since the Contract and any modification thereto were effective) as part consideration for this Amendment.

## **V. LIMITS OF EFFECT**

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

## **VI. MODIFICATIONS**

A. The Amendment and all prior amendments thereto, if any, are modified as follows:

Paragraph IV, definition of Confidential Information, shall be amended to read as follows:

“Confidential Information” means information, data, records, and documentary materials belonging to the State regardless of physical form or characteristics, including but not limited to any non-public State records, sensitive State data, protected State data, State personnel records, personally identifiable information (“PII”), Student Data and other information or data concerning individuals, which has been communicated, furnished or disclosed by the State to Contractor. Notwithstanding the foregoing, Confidential Information shall not include State Data and Records.

B. Paragraph IV., shall be amended by adding the following definition:

“Student Data” means data that is collected and stored by CDE at the individual student level and is included in a student’s educational record and includes State-administered assessment results, including participation information, courses taken and completed, credits earned and other transcript information; course grades and grade point average; grade level and expected graduation year; degree, diploma credential attainment or other school exit information; attendance and mobility information between and within Colorado school districts; special education data and special education discipline reports limited to object information that is sufficient to produce the federal Title IV annual incident report; date of birth full name gender, race, and ethnicity; and program participation information required by state or federal law.

C. Paragraph VII.D. shall be amended by adding the following new Paragraph VII.D.9:

9. Contractor shall provide the following training and professional development services for the period July 1, 2015 to June 30, 2016 as directed by CDE. The number of sessions for each type of professional development shall be mutually determined by CDE and Contractor based in part on the number of licenses purchased in accordance with Exhibit C-2.

<b>Professional Development Type</b>	<b>Session Length</b>	<b>Participant Maximum</b>	<b>Type of Participant</b>	<b>Materials</b>
One Day DIBELS Next Training of Trainers	6 hours	25	Local Trainer	Participant Training of Trainers notebook
Two Day DIBELS Next Training of Trainers	6 hours	25	Local Trainer	Participant Training of Trainers notebook
Online DIBELS Next Training Course	Self-paced	N/A	Local Trainer; Principal	DN Online access
Taking Action with Data (Benchmark or Progress Monitoring Focus)	6 hours	25	Local Trainer; Principal	Participant ToT notebook
Webex Trainings	1 - 3 hours	12	Local trainer; Principal	None
Instructional Leaders Training Session	6 hours	25	Principals; District leadership	Participant Handouts
Instructional Leaders Training Session	3 hours	25	Principals; District Leadership	Participant Handouts
DIBELS Deep Training of Trainers	6 hours	25	Local trainer; Principal	Participant ToT notebook
Half Day Onsite School Visit	3 hours	25	School staff	Varies according to onsite focus.
Full Day Onsite School Visit (at a single site)	6 hours	25	School staff	Varies according to onsite focus.

<b>Professional Development Type</b>	<b>Session Length</b>	<b>Participant Maximum</b>	<b>Type of Participant</b>	<b>Materials</b>
Webinar Series / Office Hours	1-3 hours	N/A	School and District staff	None
Custom Created Content	N/A	N/A	School and District staff	None
Author Speaker Fee	1-6 hours	N/A	School and District staff	Varies depending on focus
Professional Learning Map	N/A	N/A	School staff	Web Access
Registration logistics for 3 <sup>rd</sup> party trainings	N/A	N/A	School and District Staff	Varies

D. Paragraph VIII.A. shall be amended by increasing the maximum amount payable to Contractor by the State by \$2,795,767 for the period July 1, 2015 to June 30, 2016 for a total maximum amount payable of \$8,475,251.

E. Paragraph VIII.C. shall be amended by adding the following payment schedule and performance measures for the period July 1, 2015 through June 30, 2016:

**Payment Schedule:**

1. June 30, 2015: Contractor may invoice for fifty percent (50%) of Total Fees
2. September 30, 2015: Contractor may invoice for twenty percent (20%) of Total Fees.
3. December 31, 2015: Contractor may invoice for ten percent (10%) of Total Fees and the cost of DIBELS Deep licenses and kits as set forth in Exhibit C-2. The number of licensed students will be adjusted based on October enrollment, and the December invoice will reflect that adjustment.
4. March 31, 2016: Contractor may invoice for ten percent (10%) of Total Fees (performance holdback 1). Payment shall be made based on successful completion of the professional development and support metrics set forth in paragraphs VIII.C.6.a.1)a) and b) below.
5. June 30, 2016: Contractor may invoice for remaining ten percent (10%) of Total Fees (performance holdback 2). Payment shall be made based on successful completion of the metrics set forth in paragraphs VIII.C.6.a.2)a) through d) below
6. Performance Measures

Pursuant to Section 22-2-141, C.R.S., CDE must include performance measures as conditions affecting the amounts payable under the Contract. Twenty (20%) of the amount payable under the Contract and/or continuation of a contract is contingent upon the quality of the professional development, quality of support as indicated by improving student reading achievement, and implementation of an ongoing, iterative performance improvement cycle as determined by and in partnership with the CDE.

- 1) Ten percent (10%) of the total Contract amount will be paid in March 2016, based on successful completion of the following professional development and support metrics:
  - a) Five percent (5%) of the total Contract will be paid based on the delivery of an annual project plan, monthly status reports, assessment kit delivery and the implementation of participating schools
  - b) Five percent (5%) of the total Contract will be paid based on delivery of the professional development sessions outlined in Paragraph VII.D.5. above.
- 2) Ten percent (10%) of the total Contract amount will be paid in June 2016, based on successful completion of the following metrics:
  - a) Four percent (4%) of the total Contract will be paid based on an end of year one (2015-16) customer satisfaction rate of at least seventy five percent (75%) satisfactory rating from teachers and administrators on a survey developed by CDE and the Contractor.
  - b) Four percent (4%) of the total Contract will be paid based on the end of year one (2015-16 school year) schools using the assessment achieving ninety percent (90%) benchmark fidelity as measured by M-class: DIBELS next assessment.
  - c) Two percent (2%) of the total Contract will be based on student outcome results, using aggregated DIBELS Next composite score data from the Beginning and End of Year Benchmark administrations. Contractor shall achieve a fifteen percent (15%) reduction in the percentage of students categorized as “high risk” by the DIBELS Next assessment in schools implementing the program with fidelity.

Schools are defined as implementing the program with

fidelity if they maintain a 90% or higher completion rate at all three times of year (beginning of year, middle of year and end of year). Students are defined as "high risk" if their composite score at beginning of year is low enough to place them in the "well below benchmark" performance level for that grade and time of year. For the purposes of measuring the change in the number of high risk students at End of Year, only students assessed at all three benchmark periods (matched cohort) and who received at least two progress monitoring sessions on their skill deficiencies during each semester in which they were considered to be "well below benchmark" will be considered.

F. Paragraph XI. shall be amended by adding the following new Paragraphs XI.M.1 through XI.M.18:

1. Strong access control must be in place on Contractor's servers and workstations. All data must be at a minimum protected with a complex password, workstations and other data processing devices must automatically lock when not in use, and must be manually locked when left unattended. Passwords must be confidential and sharing of passwords is prohibited, must not be written down or stored in an insecure location, and periodically changed and not reused or a reasonable time period.
2. Unused and terminated user accounts of the Contractor must be disabled and/or deleted immediately; account inactivity must be periodically assessed for potential stale accounts.
3. Care must be exercised by the Contractor on Contractor's servers and workstations in inadvertently sharing data on display screens, during demonstrations or presentations, or when sharing screen shots for troubleshooting or other purposes.
4. Systems must be in place for logging and monitoring access and use of data.
5. At a minimum, annual intrusion penetration/vulnerability testing will be implemented.
6. Laptop/mobile device password locks and full disk/storage encryption are required.
7. Data is stored in actively monitored and secured data centers with segregated networks. The data is separated and stored across hundreds of disk drives, with only a small subset of data residing in any one location. Backups, backup media and any removable media are only copied onto encrypted devices.
8. Mandatory annual Security awareness training on how to handle PII is required.

9. Appropriate endpoint security anti-virus and anti-malware software must be installed and maintained on computers accessing or processing PII.
10. Transmitting data by Contractor must occur via a secure method such as Secure File Transfer Protocol (SFTP) or comparable and never sent via email or transported on removable media.
11. Physical security in buildings housing PII, along with controlled physical access to buildings and/or data centers.
12. Ability to suppress small N-sizes for aggregated student data reports is required.
13. After prescribed use is concluded, data disposal policies must apply for cleaning up all data. This includes secure scrubbing and securely overwriting data from storage, or physically destroying the storage media.
14. Devices used to copy or scan hard copies of data must have encrypted storage and have storage devices appropriately scrubbed when equipment is retired. Hard copy containing PII is discouraged and must be physically secured, not left unattended, and physically destroyed.
15. All data processing systems, servers, laptops, PCs, and mobile devices must be regularly scanned and have all security patches applied in a timely manner.
16. Data stored in cloud based systems must be protected in the same manner as local data, as described throughout this document. Use of free cloud based services is prohibited, and secondary encryption must be used as appropriate to protect data in cloud storage.
17. Cloud environments, when employed, must be fully documented and open to CDE inspection and verification.
18. Access to cloud based computing environments is only permitted via restricted access, by VPN or least privileged access lists, and never accessible directly via the Internet.

G. Paragraph XI A, Confidentiality shall be amended to read as follows:

Contractor shall keep all Confidential Information confidential at all times and comply with all laws and regulations concerning confidentiality of Confidential Information. Any request or demand by a third party for Confidential Information, State Data and Records, or Student Data in the possession of Contractor shall not be disclosed and such request shall be immediately forwarded to the State's principal representative to determine if the disclosure is required by law or prohibited by this Contract. Confidential Information may only be used for the purpose specified in this Contract and may not be disclosed or used for commercial purposes.

H. New Exhibit C-2 (Payment and Fee Schedule) shall be added to cover payments for the period July 1, 2015 through June 30, 2016.

**VII. START DATE**

This Amendment shall take effect on the later of its Effective Date or July 1, 2015.

**VIII. ORDER OF PRECEDENCE**

Except for the Special Provisions, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Contract or any amendment shall always control other provisions in the Contract or any amendments.

**IX. AVAILABLE FUNDS**

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available.



**THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT**

**Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.**

**CONTRACTOR**  
Amplify Education, Inc.

**STATE OF COLORADO**


John W. Hickenlooper, GOVERNOR

By: \_\_\_\_\_  
Krista Curran

**Colorado Department of Education**  
Robert Hammond, Commissioner

Title: Senior Vice President and General Manager

  
By: Robert Hammond, Commissioner

  
Signature \_\_\_\_\_ 6/12/15

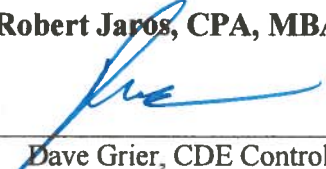
Date: 6-17-15

**ALL CONTRACTS REQUIRE APPROVAL by the STATE CONTROLLER**

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER

**Robert Jaros, CPA, MBA, JD**

By:   
\_\_\_\_\_  
Dave Grier, CDE Controller

Date: 6-23-2015

**EXHIBIT C-2**  
**FEE AND PAYMENT SCHEDULE FOR THE PERIOD**  
**JULY 1, 2015 THROUGH JUNE 30, 2016**

	Year 1 Completed	Year 2 Completed	Year 3	Year 4	Year 5
Per Licensed Student cost up to 20,000 Licensed Students	R* \$22.50	R* \$22.50	R* \$22.50	R* \$22.50	R* \$22.50
	N* \$23.25	N* \$23.25	N* \$23.25	N* \$23.25	N* \$23.25
Per Licensed Student cost 20,001-50,000 Licensed Students	R* \$22.50	R* \$22.50	R* \$22.50	R* \$22.50	R* \$22.50
	N* \$23.25	N* \$23.25	N* \$23.25	N* \$23.25	N* \$23.25
Per Licensed Student cost 50,001-80,000 Licensed Students	R* \$22.50	R* \$22.50	R* \$22.50	R* \$22.50	R* \$22.50
	N* \$23.25	N* \$23.25	N* \$23.25	N* \$23.25	N* \$23.25
Per Licensed Student cost over 80,000 Licensed Students	R* \$21.50	R* \$21.50	R* \$21.50	R* \$21.50	R* \$21.50
	N* \$22.25	N* \$22.25	N* \$22.25	N* \$22.25	N* \$22.25

Notes:

1. N\* = new schools and R\* = returning schools. The rationale for this distinction is that assessment materials are a one-time purchase in the first year of a school's implementation; professional services are included in new and returning cost.
2. DIBELS Next materials are provided as a one-time inclusion in the per student license fee for new schools. Each new school will receive one kit per grade (total of four kits).
3. Professional services for years 3 to 5 are included in the per student license fee for new and returning schools.

4. Pricing does NOT include teacher mobile devices utilized for assessment administration. Contractor advises that LEAs or schools bear this cost. LEAs and schools would then have the flexibility to choose hardware that meets local technology requirements and bear the responsibility to adequately maintain, secure, and repair hardware.
  
5. Pricing assumes once student enrollment reaches a given volume, the per-student cost for that volume tier applies to all students. By way of example, if in year 2, enrollment reaches over 80,000 students, Returning price would be \$21.50 per student for any returning students and New price would be \$22.25 for any new students.
  
6. After student licenses have been paid, CDE may use the remaining funds up to the contract cap to purchase DIBELS Deep licenses, kits and additional professional development.

Item	Fee	Payment schedule
DIBELS Deep licenses  This pricing reflects a first-year discount and will be subject to change in future years	\$0.95	December 2015
DIBELS Deep kits (including phonemic (PA) awareness, word reading and decoding (WRD))  CFOL materials are not yet available from authors and will be provided when available as custom ELAT content.  Fee applies to the kits purchased under this amendment in 2015-16 only, as the cost is subject to change.	\$55.00	December 2015
Additional professional development		As provided or ordered