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**Arbor Park School District 145
and Nearpod Inc.**

Data Privacy Addendum (Student Data Only)

This Data Privacy Addendum (the "Addendum") by and between Arbor Park School District 145 (the "School District") and Nearpod Inc. (the "**Company**") (collectively, the "Parties") is incorporated in, effective simultaneously with, and modifies the attached agreement between the Parties and all current and supplemental terms and conditions, order forms, policies, practices, procedures, and/or other documentation relating to the attached agreement (collectively, the "Agreement"). This Addendum supersedes the Agreement by adding to, deleting from, and modifying the Agreement. To the extent any provision in this Addendum results in any conflict or inconsistency between the Agreement and this Addendum, this Addendum shall govern and any term of the Agreement that conflicts with this Addendum or is inconsistent with this Addendum shall be of no force or effect.

1. Definition of School District Data

As used in this Addendum, "School District Data" includes:

- "Personally Identifiable Information" and "Education Records" of students as defined in regulations implementing the Family Educational Rights and Privacy Act ("FERPA"), 34 C.F.R. § 99.3;
- "School Student Records" as defined in the Illinois School Student Records Act ("ISSRA"), 105 ILCS 10/2(d);
- "Covered Information" as defined in the Illinois Student Online Personal Protection Act ("SOPPA"), 105 ILCS 85/5; and
- All other non-public information, including student data, metadata, and user content, of the School District's students.

2. Services and Data Provided

2.1 Nature of Products or Services Provided. The Company has agreed to provide the following products and/or services to the School District: Nearpod Premium Plus, as more particularly described in the Nearpod Sales Order with Quote ID: 135492.

2.2 School District Access to Data. Any School District Data in the possession or under the control of the Company shall be made available to the School District upon request by the School District. The Company shall be responsible to provide copies of or access to School District Data in the possession or under the control of the Company to the School District within a reasonable time frame

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and in all cases within time frames that will allow timely compliance by the School District with any statutorily or court ordered deadline. This includes requests under the Illinois Freedom of Information Act ("FOIA"), 5 ILCS 140/1 *et seq.*, requests regarding student records under FERPA or ISSRA, requests for records in discovery in state or federal court or administrative proceedings, and any other request.

2.3 *Company Use of Data.* The Company may use and disclose the School District Data only for the purposes described in the Agreement and only in a manner that does not violate local, state, or federal privacy laws and regulations. These include, but are not limited to, the following requirements, as applicable:

2.3.1 School Officials Requirements. The Company acknowledges that it is acting and designated as a "school official" or "official of the school" with a "legitimate educational interest" in the School District Data as those terms are used in FERPA, ISSRA, and SOPPA (a "School Official"). The Company agrees to abide by the limitations and requirements applicable to a School Official. The Company agrees it is performing an institutional service or function for which the school would otherwise use employees and is under the direct control of the school with respect to the use and maintenance of the School District Data. The Company agrees that it will use the School District Data only for authorized purposes and will comply with all limitations and requirements imposed on a School Official under FERPA, ISSRA, and SOPPA, including the requirements that the Company: (1) collect and use School District Data only for the purpose of fulfilling its duties under the Agreement and this Addendum and only for the benefit of the School District and its end users; (2) will not share, disclose, or re-disclose the School District Data to any third party or affiliate except as permitted by FERPA, ISSRA, and SOPPA or provided for in this Addendum, otherwise authorized in writing by the School District, or pursuant to a court order; (3) will not use School District Data (including metadata) for advertising or marketing purposes unless such use is specifically authorized by this Addendum or otherwise authorized in writing by the School District.

2.3.2 PPRA Requirements. With respect to the Company's collection, disclosure, or use of School District Data as governed by the PPRA, the Company's collection, disclosure, or use of any School District Data shall be for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, the School District's students or educational institutions, or otherwise for the use and benefit of the school. The Company will not use the School District Data for any purpose other than the School District's purpose.

2.3.3 COPPA Requirements. To the extent applicable, the Company agrees that its use of the School District Data will be solely for the benefit of the School District's students and for the school system, and that the Company will not collect personal information from students for any

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purpose other than the School District's purpose, including any other commercial purpose.

2.4 *Internal Company Disclosure.* The Company attests that only individuals or classes of individuals who are essential to perform the work under the Agreement will have access to the School District Data and that those individuals and classes of individuals will be familiar with and bound by this Addendum and relevant law. The Company shall cause each officer, director, employee, subcontractor, and other representative who will have access to any School District Data during the term of the Agreement to comply with all legal requirements applicable to the School District Data, including but not limited to those outlined in this Agreement and under relevant law.

3. Company Obligations Regarding Data

3.1 *Safeguards.* The Company agrees to take appropriate administrative, technical, and physical safeguards reasonably designed to protect the security, privacy, confidentiality, and integrity of School District Data. The Company shall ensure that School District Data are secured and encrypted to the greatest extent practicable during use, storage and/or transmission.

3.1.1 *Security Procedures and Practices.* The Company agrees that at it will implement and maintain security procedures and practices that, at a minimum, are designed to protect covered information from unauthorized access, destruction, use, modification, or disclosure that based on the sensitivity of the data and the risk from unauthorized access: (i) use technologies and methodologies that are consistent with the U.S. Department of Commerce's National Institute of Standards and Technology's Framework for Improving Critical Infrastructure Cybersecurity Version 1.1. and any updates to it; or (ii) maintain technical safeguards as they relate to the possession of covered information in a manner consistent with the provisions of 45 C.F.R. 164.312.

3.1.2 *Storage of Data.* The Company agrees to store and process the School District Data in a manner that is no less protective than those methods used to secure the Company's own data. The Company agrees that School District Data will be stored on equipment or systems located within the United States.

3.1.3 *Audit of Safeguards.* Upon receipt of a written request from the School District, received at least thirty (30) days in advance, the Company will allow the School District to audit the security and privacy measures that are in place to ensure protection of the Student Data or any portion thereof. Such audit will be at the sole expense of the School District and will be conducted during normal business hours and in a reasonable manner. The Company will cooperate reasonably with the School District and any local, state, or federal agency with oversight authority/jurisdiction in connection with any audit or investigation of the

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Company and/or delivery of services to students and/or School District, and shall provide reasonable access to the Company's facilities, staff, agents and School District's Student Data and all records pertaining to the Company, School District and delivery Services to the School District. Failure to cooperate with the requirements herein may be deemed a material breach of this Agreement. Audits may be conducted no more than once per calendar year, except in the case of a verified breach. Access to School District will be provided to the extent that in Company's reasonable discretion such access does not compromise the security of its operations or confidentiality of other customer data.

- 3.1.4 Reasonable Methods.** The Company agrees to use "reasonable methods" to ensure to the greatest extent practicable that the Company and all parties accessing School District Data are compliant with state and federal law. The School District reserves the right to audit such measures upon reasonable prior notice during business hours.
- 3.2 Privacy Policy.** The Company must publicly disclose material information about its collection, use, and disclosure of covered information, including, but not limited to, publishing a terms of service agreement, privacy policy, or similar document. Any changes the Company may implement with respect to its privacy policies or terms of use documents shall be ineffective and inapplicable with respect to the School District and/or School District Data unless the School District affirmatively consents in writing to be bound by such changes. Access by students or parents/guardians to the Company's programs or services governed by the Agreement and this Addendum or to any School District Data stored by the Company shall not be conditioned upon agreement by the parents/guardians to waive any of the student data confidentiality restrictions or a lessening of any of the confidentiality or privacy requirements contained in this Addendum.
- 3.3 Data Return/Destruction.** Upon expiration of the term of the Agreement, upon the earlier termination of the Agreement for any reason, at a time when some or all the School District Data is no longer needed for purposes of the Agreement, or upon the School District's request, the Company covenants and agrees that it promptly shall return to the School District all School District Data in the Company's possession and control. If return of the data is not feasible or if the School District agrees, then the Company shall destroy the data. The Company agrees to send a written certificate that the data was properly destroyed or returned, upon written request for same. Such certificate shall be delivered within 30 days of the date of the event (and written request for same) triggering return/destruction (e.g., within 30 days of the termination of the Agreement, within 30 days of the School District's request or notification to the Company that the data is no longer needed for the purposes of the Agreement). The Company shall destroy School District Data in a secure manner and in such a manner that it is permanently irretrievable in the normal course of business. The only exception to the requirements of this *Section 5.3* is if the Company has express written consent from a student's parent or legal guardian consenting to the maintenance of the covered information.

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3.4 *Authorizations.* The Company agrees to secure individual School District or parent/guardian written authorizations to maintain or use the School District Data in any manner beyond the scope of or after the termination of the Agreement.

3.5 *Data Breach.* For purposes of this section, "data breach" means the unauthorized disclosure of data, unauthorized provision of physical or electronic means of gaining access to data that compromises the security, confidentiality, or integrity of School Student Data, or other unauthorized access, alteration, use or release of School District Data, as well as any other circumstances that could have resulted in such unauthorized disclosure, access, alteration, or use.

3.5.1 In the event of a data breach, the Company agrees to the following: (1) notify the School District by telephone and email within the most expedient time possible and without unreasonable delay, but no later than 72 hours after the determination that a breach has occurred; (2) at the time notification of the breach is made, provide the School District with the name and contact information for an employee of the Company who shall serve as the Company's primary security contact; (3) assist the School District with any investigation, including interviews with Company employees and review of all relevant records; (4) provide the School District within the most expedient time possible and without unreasonable delay, and in no case later than fifteen (15) days after notification to the School District that a data breach occurred, the number of students whose covered information is involved in the breach; the date, estimated date, or estimated date range of the breach; a description of the covered information that was compromised or reasonably believed to have been compromised in the breach; and contact information for the person who parents/guardians may contact at the Company regarding the breach; and (4) assist the School District with any notification the School District deems necessary related to the security breach. The Company agrees to comply with the terms of this *Section 5.5.1* regardless of whether the misuse or unauthorized release of School District Data is the result of or constitutes a material breach of the Agreement or this Addendum.

3.5.2 The Company shall not, unless required by law, provide any notices except to the School District without prior written permission from the School District.

3.5.3 The Company shall reimburse and indemnify the School District for all costs imposed on the School District or reasonably undertaken by the School District at its discretion associated with a data breach, including but not limited to reimbursement of costs associated with notifying individuals whose information was compromised and notifying required regulatory agencies; fees paid to provide credit monitoring to impacted individuals; legal fees, audit costs, fines, and any other fees or damages reasonably undertaken by or imposed against the School District as a

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result of the security breach; and any other notifications, legally mandated responses, or responses reasonably undertaken by the School District in response to the breach.

4. Prohibited Uses

4.1 The Company shall not do any of the following:

4.1.1 Sell School District Data; use or share School District Data for purposes of targeted advertising, as defined in Section 85/5 of SOPPA; or use School District Data to create a personal profile of a student other than for accomplishing the purposes described in the Agreement and this Addendum and explicitly authorized in writing by the District;


4.1.2 Use information, including persistent unique identifiers, created or gathered by the operator’s site, service, or application to amass a profile about a student, except in furtherance of “K through 12 school purposes,” as defined by SOPPA. “Amass a profile” does not include the collection and retention of account information that remains under the control of the student, the student’s parent or legal guardian, or the School District; or

4.1.3 Sell or rent a student’s information, including covered information. This Section does not apply to the purchase, merger, or other type of acquisition of the Company by another entity if the Company or its successor entity complies with all relevant law and this Addendum regarding previously acquired School District Data.


4.2 Notwithstanding the previous paragraphs and any other terms of this Addendum, the Company may use School District Data for maintaining, developing, supporting, improving, or diagnosing the operator’s site, service, or application if such use is authorized by Federal or State law. The Company agrees to notify the School District if it believes release of School District Data is otherwise justified under law, including the reasons set forth in SOPPA Section 84/10(4); however, any such disclosure must be made by the School District and pursuant to valid ISSRA and FERPA exceptions.

Effective Date. The Addendum shall be deemed dated and become effective on the date the last of the parties signs as set forth below the signature of their duly authorized representatives.

Nearpod Inc.

DocuSigned by:

33B8AE5BEDFE484...
Signature
Jose Carrera
Name

School District


Signature
Dave Termunde
Name

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Chief Executive Officer

Title
1/13/2022

Date

CTO

Title
1/13/2022

Date

2/1/21

Exhibit A
Agreement
[Insert Sales Order]



Quote ID: 162157

**Sales Order For:**

David Termunde
 ARBOR PARK SD 145
 17301 CENTRAL AVE
 OAK FOREST, Illinois 60452
 UNITED STATES

Nearpod Contact:

Patrick Jean Baptiste
 1855 Griffin Rd. Suite A-290
 Dania Beach, FL 33004

If you are a Tax-Exempt Customer, please include your Sales Tax-Exempt Certificate with signed documents/proof of payment. Otherwise, applicable tax will be included in your invoice.

Purchase Orders should be addressed to:
 Nearpod Inc.
 1855 Griffin Road A-290
 Dania Beach, FL 33004

Service Start: 07/01/2022**Service End:** 06/30/2023

Description	Quantity	Total
<p>Nearpod Premium Plus - District:</p> <p>Nearpod Premium Plus, including unlimited access to:</p> <ul style="list-style-type: none"> - Nearpod's lesson, video, and activity creation and delivery platform with 20+ formative assessment and media features - Nearpod Lesson Library with 7,500+ standards-aligned, interactive lessons for all K-12 subject areas, featuring favorite educational brands - Nearpod Video & Activity Library with 5,000+ standards-aligned interactive videos and activities for all K-12 subject areas, featuring favorite educational brands, that can be used on their own, or added to Nearpod slides lessons 	1250 - Students	\$12,187.50

<ul style="list-style-type: none"> - District features including larger class sizes, unlimited storage, School and District shared Libraries, LMS integration, and more - Premium Plus lesson delivery features, including Live Teacher Annotation and Co-Teaching 		
<p>Online Training:</p> <p>Webinar: Up to 2-hour session with a Nearpod Trainer for up to 50 participants.</p>	2 - Licenses	\$900.00
	Total	(USD) \$13,087.50

Terms

This Sales Order is valid until:

Service will run from 07/01/2022 until 06/30/2023, or from when customer is first provided access to the purchased service(s) for a length of time equal to the time between the Start Date and End Date, whichever is later. The agreed upon price for this timeframe is (USD) \$13,087.50.

Nearpod price quotes are confidential, unless disclosure is required by subpoena or state law. Education List Pricing is only available for PreK-12 Education customers. Please submit this price quote attachment with your Purchase Order. Tax-exempt customers should include their tax-exempt number on their Purchase Order.

This Sales Order covers the Nearpod and/or Flocabulary Services described herein and is governed by the Nearpod Terms and Conditions available online at: <https://nearpod.com/terms-conditions>, the Nearpod Privacy Policy available online at: <https://nearpod.com/privacy-policy>, the Flocabulary Terms of Use available online at: <https://flocabulary.com/terms-of-use/>, and the Flocabulary Privacy Policy available online at: <https://flocabulary.com/privacy-policy/>, as applicable.

Training Policy

Training Cancellation Policy

Nearpod requests 48 hours notice to cancel or reschedule a confirmed session. If the session is not canceled but no one attends, this session will be considered expired.

Minimum Attendance Policy

Nearpod requests that at least 10 participants attend a confirmed training session. If there are fewer than 10 participants, the session may be modified and will not be recorded.

Free Training Resources

Access to daily public webinars, on-demand webinars and how-to resources and videos can be accessed here: <http://nearpod.com/resources>

Customers providing a Purchase Order are required to remit payment within 30 days of invoicing. Otherwise, payment is required within 7 business days. Failure to remit payment may cause a disruption in service. By signing this Agreement, I certify that I am authorized to sign on behalf of the Customer and agree to the Terms and Conditions of this Sales Order and any documents incorporated herein.

If you are a Tax-exempt customer, please include your Sales Tax-Exempt Certificate with signed documents/proof of

payment. Otherwise, applicable tax will be included in your invoice.

Is a PO Required for Purchase? Yes / No

If Yes, please provide PO number below and submit PO with this Sales Order.

If No, please return this Sales Order with Signature below and indicate payment method.

Purchase Order (Net 30):

Please provide PO #: _____

If PO is not provided, payment is due immediately via Credit Card, Check, ACH, or Wire

Check, ACH or Wire

Credit Card

Please provide email address to receive
secure payment link:

Expiration Date:

Name on card:

Name: _____

Signature: _____

Date: _____

Tax Exempt #: _____

Purchase Orders should be addressed to:

Nearpod, Inc

1855 Griffin Rd. Suite A-290

Dania Beach, FL 33004

Email: patrick.jeanbaptiste@nearpod.com or FAX: +1 305-655-1999

Form **W-9**
 (Rev. October 2016)
 Department of the Treasury
 Internal Revenue Service

**Request for Taxpayer
 Identification Number and Certification**

**Give Form to the
 requester. Do not
 send to the IRS.**

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Nearpod Inc.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

Individual/sole proprietor or single-member LLC

C Corporation

S Corporation

Partnership

Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) ► _____

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
1855 Griffin Road, A290

6 City, state, and ZIP code
Dania Beach, Florida 33004

7 List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			-			-			
--	--	--	---	--	--	---	--	--	--

OR

Employer identification number

4	6	-	0	9	9	3	6	7	9
---	---	---	---	---	---	---	---	---	---

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ► *Devinne Vaux*, CFO Date ► 1/5/2022

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

Data Category	Data Elements	Nearpod	Flocabulary
Application Technology Metadata	IP Addresses of users, use of cookies, etc.	Required	Required
	Other application technology metadata	Required	Required
Application Use Statistics	Metadata on user interaction with application		
Assessment	Standardized test scores		
	Observation data		
	Testing Environment		
	Voice Recordings	Optional	
	Other Assessment Data		
Attendance	Student school (daily) attendance data		
	Student class attendance data		
Communication	Online communications that are captured (emails, blog entries)		
Demographics	Conduct or behavioral data		
	Date of Birth		
	Place of Birth		
	Gender		
	Ethnicity or race		
	Specialized education services (IEP or 504)		
	Living situations (homeless/foster care)		
	Language information (native, preferred or primary language spoken by student)		
Other indicator information			
Enrollment	Student school enrollment	Optional	Required
	Student grade level		Required
	Homeroom		
	Guidance counselor		
	Specific curriculum programs		
	Year of graduation		
	Other enrollment information		



1-855-NEARPOD



contact@nearpod.com



nearpod.com



@nearpod

Parent/Guardian Information	Address		
	Email		
	Phone		
	First and/or Last		
Schedule	Student scheduled courses		
	Teacher names	Required	Required
	Teacher emails	Required	Required
Special Indicator	English language learner information		
	Low income status - SES Free and Reduced		
	Medical alerts/health data		
	Student disability information		
Student Contact Information	Address		
	Email	Optional	Optional
	Phone		
Student Identifiers	Local (School district) ID number		
	Vendor/App assigned student ID number	Optional	
	Student app username		Required
	Student app passwords encrypted only for SSO		
	First and/or Last	Optional	Required
Student In App Performance	"Program / application performance (typing program- student types 60 wpm, reading program-student reads below grade level)"		
Student Work	Student responses to surveys or questionnaires	Required	Optional
	Student generated content; writing, pictures etc.	Required	Optional
	Other student work data		
Transcript	Student course grades		
	Student course data		
	Student course grades/performance scores		
	Other transcript data		
Transportation	Other transportation data		



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Exhibit C
Nature of Products or Services Provided

The Company shall be providing the following products or services to the School District:

- Nearpod Inc.