

EXHIBIT “H” – Additional Terms or Modifications

Version _____ Code.org _____

LEA and Provider agree to the following additional terms and modifications:

ARTICLE IV: DUTIES OF PROVIDER

2. **Authorized Use.** The Student Data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services outlined in Exhibit A or stated in the Service Agreement and/or otherwise authorized under the statutes referred to herein this DPA **and applicable law**.

4. **No Disclosure.** Provider acknowledges and agrees that it shall not make any re-disclosure of any Student Data or any portion thereof, including without limitation, user content or other non-public information and/or personally identifiable information contained in the Student Data other than as directed or permitted by the LEA or this DPA. This prohibition against disclosure shall not apply to ~~aggregate summaries of~~ De-Identified **Data information**, Student Data disclosed pursuant to a lawfully issued subpoena or other legal process, or to subprocessors performing services on behalf of the Provider pursuant to this DPA. Provider will not Sell Student Data to any third party.

5. **De-Identified Data:** Provider agrees not to attempt to re-identify de-identified Student Data. De-Identified Data may be used by the Provider for those purposes allowed under FERPA and the following purposes: assisting the LEA or other governmental agencies in conducting research and other studies; and (2) research and development of the Provider's educational sites, services, or applications, and to demonstrate the effectiveness of the Services; and (3) for adaptive learning purpose and for customized student learning. Provider's use of De-Identified Data shall survive termination of this DPA or any request by LEA to return or destroy Student Data. Except for Subprocessors, Provider agrees not to transfer ~~de-identified De-Identified Data~~ Student Data to any party unless ~~(a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to the LEA who has provided prior written consent for such transfer.~~ Prior to publishing any document that names the LEA explicitly or indirectly, the Provider shall obtain the LEA's written approval of the manner in which ~~de-identified data~~ **De-Identified Data** is presented.

6. **Disposition of Data.** Upon written request from the LEA, Provider shall dispose of or provide a mechanism for the LEA to transfer Student Data obtained under the Service Agreement, within sixty (60) days of the date of said request and according to a schedule and procedure as the Parties may reasonably agree. Upon termination of this DPA, if no written request from the LEA is received, Provider shall dispose of all Student Data ~~after providing the LEA with reasonable prior notice. in accordance with the data retention policy described in Exhibit A.*~~ The duty to dispose of Student Data shall not extend to Student Data that had been De-Identified or placed in a separate student account pursuant to section II 3. The LEA may employ a “Directive for Disposition of Data” form, a copy of which is attached hereto as **Exhibit “D”**. If the LEA and Provider employ Exhibit “D,” no further written request or notice is required on the part of either party prior to the disposition of Student Data described in Exhibit “D.”

permitted by the LEA or this DPA. This prohibition against disclosure shall not apply to aggregate summaries of De-Identified information, Student Data disclosed pursuant to a lawfully issued subpoena or other legal process, or to sub processors performing services on behalf of the Provider pursuant to this DPA. Provider will not Sell Student Data to any third party.

ARTICLE VII: MISCELLANEOUS

1. Termination. In the event that either Party seeks to terminate this DPA, they may do so by mutual written consent so long as the Service Agreement has lapsed or has been terminated. Either party may terminate this DPA and any ~~service agreement or contract~~ **Service Agreement** if the other party breaches any terms of this DPA.

EXHIBIT "C" **DEFINITIONS**

Student Data: Student Data includes any data, whether gathered by Provider or provided by LEA or its users, students, or students' parents/guardians, that is descriptive of the student including, but not limited to, information in the student's educational record or email, first and last name, birthdate, home or other physical address, telephone number, email address, or other information allowing physical or online contact, discipline records, videos, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security numbers, biometric information, disabilities, socioeconomic information, individual purchasing behavior or preferences, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, geolocation information, parents' names, or any other information or identification number that would provide information about a specific student. Student Data includes Meta Data. Student Data further includes "personally identifiable information (PII)," as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law. Student Data shall constitute Education Records for the purposes of this DPA, and for the purposes of federal, state, and local laws and regulations. Student Data as specified in **Exhibit "B"** is confirmed to be collected or processed by the Provider pursuant to the Services. Student Data shall not ~~constitute that include De-Identified Data or~~ information that has been anonymized ~~or de-identified~~, or anonymous usage data regarding a student's use of Provider's services.

ADDENDUM TO CALIFORNIA STUDENT DATA PRIVACY AGREEMENT

IN CONSIDERATION of the mutual agreement by Nearpod Inc.
 (“Provider”) and Oak Grove School District (“LEA”) in
 the Addendum, Provider and LEA agree to the following changes to the California
 Student Data Privacy Agreement (“DPA”), as follows:

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

4. Third Party Request. Should a Third Party, including law enforcement and government entities, contact Provider with a request for data held by the Provider pursuant to the Services, the Provider shall redirect the Third Party to request the data directly from the LEA. Provider shall notify the LEA in advance of a compelled disclosure to a Third Party, **so long as legally permitted to do so.**

ARTICLE IV: DUTIES OF PROVIDER

4. No Disclosure. De-identified information may be used by the Provider for the purposes of development, research, and improvement of educational sites, services, or applications, as any other member of the public or party would be able to use de-identified data pursuant to 34 CFR 99.31(b). Provider agrees not to attempt to re-identify de-identified Student Data and not to transfer de-identified Student Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to LEA who has provided prior written consent for such transfer; **with the exception of Subprocessors whose services are required to provide its obligation under the Service Agreement.** Provider shall not copy, reproduce or transmit any data obtained under the Service Agreement and/or any portion thereof, except as necessary to fulfill the Service Agreement.

ARTICLE V; DATA PROVISIONS

2. Data Breach. In the event that Student Data is accessed or obtained by an unauthorized individual, Provider shall provide notification to LEA within a reasonable amount of time of the incident, and not exceeding **forty-eight (48) seventy two (72)** hours.

[Signature Page Follows]

EXHIBIT "E"
GENERAL OFFER OF PRIVACY TERMS

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and Modesto City Schools

("Originating LEA") which is dated Jan 26, 2022, to any other LEA ("Subscribing LEA") who accepts this General Offer of Privacy Terms ("General Offer") through its signature below. This General Offer shall extend only to privacy protections, and Provider's signature shall not necessarily bind Provider to other terms, such as price, term, or schedule of services, or to any other provision not addressed in this DPA. The Provider and the Subscribing LEA may also agree to change the data provided by Subscribing LEA to the Provider to suit the unique needs of the Subscribing LEA. The Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statutes; (2) a material change in the services and products listed in the originating Service Agreement; or three (3) years after the date of Provider's signature to this Form. Subscribing LEAs should send the signed **Exhibit "E"** to Provider at the following email address:

privacy@code.org

PROVIDER: Code.org

BY: Cameron Wilson Date: 01-27-2022

Printed Name: Cameron Wilson Title/Position: COO

2. Subscribing LEA

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA and the Provider shall therefore be bound by the same terms of this DPA for the term of the DPA between the Modesto City Schools

and the Provider. **PRIOR TO ITS EFFECTIVENESS, SUBSCRIBING LEA MUST DELIVER NOTICE OF ACCEPTANCE TO PROVIDER PURSUANT TO ARTICLE VII, SECTION 5. **

LEA: Wasco Union Elementary SD

BY: Kelly Richers Date: 10-06-2022

Printed Name: Kelly Richers Title/Position: Superintendent

SCHOOL DISTRICT NAME: Wasco Union Elementary SD

DESIGNATED REPRESENTATIVE OF LEA:

Name: Kelly Richers

Title: Superintendent

Address: 1102 5th St. Wasco CA 93280

Telephone Number: 661-758-7100

Email: kerichers@wuesd.org