

EXHIBIT "H" – Additional Terms or Modifications

Version _____
CK-12 Foundation

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

ARTICLE III: DUTIES OF LEA

5. **User Content:** If teachers or any other LEA staff create user content or customize resources, teachers or any other LEA staff must not include Student Data and must do so in compliance with CK-12 Terms of Use section 8.4.

ARTICLE IV: DUTIES OF PROVIDER

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: (1) 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 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 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 Article II, §Section # 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"**.

Note* Exhibit A language will include the following:

Provider needs to provide the detailed retention policy details, including the timeline.

ARTICLE V: DATA PROVISIONS

2. **Audits.** No more than once a year, or following unauthorized access, ~~upon receipt of a written request from the LEA with at least ten (10) business days' notice and upon the execution of an appropriate confidentiality agreement, the Provider will allow the LEA to audit the security and privacy measures that are in place to ensure protection of Student Data or any portion thereof as it pertains to the delivery of services to the LEA.~~ The LEA may make reasonable inquiries of the Provider regarding the use of the LEA's Student Data and the security measures undertaken by the Provider to protect said Student Data. The Provider will cooperate reasonably with the LEA and any local, state, or federal agency with oversight authority or jurisdiction in connection with any audit or investigation of the Provider and/or delivery of Services to students and/or LEA, and shall provide reasonable access to the Provider's **facilities**, staff, agents and LEA's Student Data and all records pertaining to the Provider, LEA and delivery of Services to the LEA. Failure to reasonably cooperate shall be deemed a material breach of the DPA.
4. **Data Breach.** In the event of an unauthorized release, disclosure or acquisition of Student Data that compromises the security, confidentiality or integrity of the Student Data maintained by the Provider the Provider shall provide notification to LEA within ~~seventy two (72) hours~~ **three business days after** confirmation of the **incident data breach**, unless notification within this time limit would disrupt investigation of the **incident data breach** by law enforcement. In such an event, notification shall be made within a reasonable time after the incident. Provider shall follow the following process:
- (1) The security breach notification described above shall include, at a minimum, the following information to the extent known by the Provider and as it becomes available:
 - i. The name and contact information of the reporting LEA subject to this section.
 - ii. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
 - iii. If the information is possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3) the date range within which the breach occurred. The notification shall also include the date of the notice.
 - iv. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided; and
 - v. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
 - (2) Provider agrees to adhere to all federal and state requirements with respect to a data breach related to the Student Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.

(3) Provider further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of Student Data or any portion thereof, including personally identifiable information and agrees to provide LEA, upon request, with a summary of said written incident response plan.

(4) LEA shall provide notice and facts surrounding the breach to the affected students, parents or guardians.

(5) In the event of a breach originating from LEA's use of the Service, Provider shall cooperate with LEA to the extent necessary to expeditiously secure Student Data.

ARTICLE VII: MISCELLANEOUS

1. **Termination.** In the event that either Party seeks to terminate this DPA, they may do so by mutual written consent or by either party by giving at least 30 days written notice ~~so long as the Service Agreement has lapsed or has been terminated~~. Either party may terminate this DPA and any service agreement or contract 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 information that has been anonymized or de-identified, or anonymous or de-identified usage data and/or

anonymous or de-identified User Content, regarding a student's use of Provider's services.

EXHIBIT "G"
Supplemental SDPC State Terms for California
Version 1.0

2. **Modification to Article IV, Section 7 of the DPA.** Article IV, Section 7 of the DPA (Advertising Limitations) is amended by deleting the stricken text as follows: Provider is prohibited from using, disclosing, or selling Student Data to (a) inform, influence, or enable Targeted Advertising; or (b) develop a profile of a student, family member/guardian or group, for any purpose other than providing the Service to LEA. Targeted Advertising is strictly prohibited. However, this section does not prohibit Provider from using Student Data (i) for adaptive learning or customized student learning (including generating personalized learning recommendations); or (ii) to make product recommendations to teachers or LEA employees that are not considered Targeted Advertising; or (iii) to notify account holders about new education product updates, features, or services that are not considered Targeted Advertising; or (iv) from otherwise using Student Data as permitted in this DPA and its accompanying exhibits.



EXHIBIT "E"
GENERAL OFFER OF PRIVACY TERMS

1. Offer of Terms

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

Palo Alto USD

("Originating LEA") which is dated **July 20, 2023** to any other California 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-agreements@ck12.org.

PROVIDER: CK-12 Foundation

BY: Miral Shah Date: 08-11-2023
Printed Name: Miral Shah Title/Position: Chief Technology and Product Officer

2. Subscribing LEA

A Subscribing LEA, ~~by signing a separate Service Agreement with Provider, and~~ by its signature below this General Offer of Privacy Terms, 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

Palo Alto USD

and the Provider. ~~**PRIOR TO ITS EFFECTIVENESS, SUBSCRIBING LEA MUST DELIVER NOTICE OF ACCEPTANCE TO PROVIDER PURSUANT TO ARTICLE VII, SECTION 5. **~~ **In order to provision additional safeguards, per the terms of this DPA, THIS DPA SHALL BECOME EFFECTIVE ON THE SEVENTH (7TH) DAY FOLLOWING THE DATE OF CONFIRMED RECEIPT OF THE SUBSCRIBING LEA'S SIGNATURE ON THIS OFFER DOCUMENT BY THE PROVIDER.****

LEA: Modesto City Schools

BY: Matthew Ketchum Date: 11-21-2023

Printed Name: Matthew Ketchum Title/Position: Director of Educational Technology

SCHOOL DISTRICT NAME: Modesto City Schools

SCHOOL DISTRICT DOMAIN NAME(S): monet.k12.ca.us or mcs4kids.com

(ex: @myschool.com or @student.mys.org)

DESIGNATED REPRESENTATIVE OF LEA:

Name: Matthew Ketchum Title: Director of Educational Technology

Address: 426 Locust Street, Modesto, CA 95351

Phone: (209)574-1500 Email: ketchum.m@monet.k12.ca.us

Signature Certificate

Reference number: ZCH9K-8TCLL-CRLGW-VMYJZ

Signer

Timestamp

Signature

Matthew Ketchum

Email: ketchum.m@monet.k12.ca.us

Sent:

17 Nov 2023 23:15:29 UTC

Viewed:

21 Nov 2023 17:45:14 UTC

Signed:

21 Nov 2023 17:45:41 UTC



Recipient Verification:

✓ Email verified

21 Nov 2023 17:45:14 UTC

IP address: 73.116.136.58

Location: Modesto, United States

Document completed by all parties on:

21 Nov 2023 17:45:41 UTC

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