

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

This Virginia School Data Privacy Agreement ("DPA") is entered into by and between the

(hereinafter referred to as "Division") and

MakeMusic, Inc. (hereinafter referred to as "Provider") on

08/29/23 The Parties agree to the terms as stated herein.

RECITALS

WHEREAS, the Provider has agreed to provide the Division with certain digital educational services ("Services") as described in Article I and Exhibit "A"; and

WHEREAS, in order to provide the Services described in Article 1 and Appendix A, the Provider may receive or create and the Division may provide documents or data that are covered by several federal statutes, among them, the Federal Educational Rights and Privacy Act ("FERPA") at 20 U.S.C. 1232g and 34 CFR Part 99, Children's Online Privacy Protection Act ("COPPA"), 15 U.S.C. 6501-6502; Protection of Pupil Rights Amendment ("PPRA") 20 U.S.C. 1232h; the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §§ 1400 *et. seq.*; and

WHEREAS, the documents and data transferred from Virginia Divisions and created by the Provider's Services are also subject to several Virginia student privacy laws, including Code of Virginia § 22.1-289.01. *School service providers; school-affiliated entities; student personal information*; and § 22.1-287.02. *Students' personally identifiable information*.

WHEREAS, the Parties wish to enter into this DPA to ensure that the Services provided conform to the requirements of the privacy laws referred to above and to establish implementing procedures and duties.

WHEREAS, the Provider may, by signing the "General Offer of Privacy Terms" (Exhibit "E"), agree to allow other Local Educational Agencies (LEAs) in Virginia the opportunity to accept and enjoy the benefits of this DPA for the Services described herein, without the need to negotiate terms in a separate DPA.

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

ARTICLE I: PURPOSE AND SCOPE

1. Purpose of DPA. The purpose of this DPA is to describe the duties and responsibilities to protect Division Data (as defined in Exhibit "C") transmitted to Provider from the Division pursuant to Exhibit "A", including compliance with all applicable state privacy statutes, including the FERPA, PPRA, COPPA, IDEA, 603 C.M.R. 23.00, 603 CMR 28.00, and Code of Virginia § 22.1-289.01. *School service providers; school-affiliated entities; student personal information; and § 22.1-287.02. Students' personally identifiable information.* In performing these services, to the extent Personally Identifiable Information (as defined in Exhibit "C") from Pupil Records (as defined in Exhibit "C") are transmitted to Provider from Division, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the Division. Provider shall be under the direct control and supervision of the Division.

2. Nature of Services Provided. The Provider has agreed to provide the following digital educational services described below and as may be further outlined in Exhibit "A" hereto: