MAINE STUDENT DATA PRIVACY AGREEMENT
Version 1.0

SACO SCHOOLS and

IXL LEARNING, INC.

July 18, 2019

This Maine Student Data Privacy Agreement ("DPA") is entered into by and between the **Saco Schools**, (hereinafter referred to as "School Unit") and **IXL** (hereinafter referred to as "Provider") on the date provided on the preceding page. The Parties agree to the terms as stated herein.

RECITALS

WHEREAS, the Provider has agreed to provide the School Unit with certain digital educational services ("Services") pursuant to a contract dated and the IXL terms of service, available at www.ixl.com/termsofservice (collectively, the "Service Agreement"); and

WHEREAS, in order to provide the Services described in the Service Agreement, the Provider may receive or create, and the School Unit 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 et. seq. (34 CFR Part 99), Children's Online Privacy Protection Act ("COPPA"), 15 U.S.C. §§6501-6506; Protection of Pupil Rights Amendment ("PPRA") 20 U.S.C. §1232h et. seq.; and Individuals with Disabilities Education Act ("IDEA") 20 U.S.C. § 1400 et. seq. (34 CFR Part 300); and

WHEREAS, the documents and data transferred from School Units and created by the Provider's Services ~~are~~ may also be subject to several state student privacy laws, including Maine's dissemination of student records law 20-A M.R.S. §6001; Maine Student Information Privacy Act 20-A M.R.S. §951 et. seq. ("MSIPA"); and Maine Unified Special Education Regulations ("MUSER") Maine Dep't of Edu. Rule Ch. 101; and

WHEREAS, this Agreement ~~complies~~ is intended to comply with Maine laws, and federal law; and

WHEREAS, the Parties wish to enter into this DPA to ensure that the Service Agreement conforms to the requirements of the privacy laws referred to above and to establish implementing procedures and duties; and

~~**WHEREAS, the Provider may, by signing the "General Offer of Privacy Terms", agree to allow other school units in Maine 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 student data transmitted to Provider from the School Unit pursuant to the Service Agreement, including compliance with all applicable federal and state privacy statutes, including FERPA, PPRA, COPPA, IDEA, MSIPA, and MUSER and other applicable Maine laws, all as may be amended from time to time. In performing these Services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the School Unit. Provider shall be under the direct control and supervision of the School Unit with respect to the use and maintenance of information shared with Provider by School Unit pursuant to this Agreement and the Service Agreement.

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:

   - ~~[Insert Brief Description of Services]~~Providing the IXL Service pursuant to the IXL terms of service (www.ixl.com/termsofservice) and privacy policy (www.ixl.com/privacypolicy)

3. **Student Data to Be Provided**. In order to perform the Services described in the Service Agreement, School Unit shall provide the categories of data described below or as indicated in the Schedule of Data, attached hereto as Exhibit "B":

   - Please see attached rostering spreadsheet. The District has the option of providing as much or little of the information on the rostering spreadsheet as deemed necessary by the District. The IXL Service may be used on a pseudonymous basis.
   - ~~[Insert Categories of Student Data to be provided to the Provider]~~

4. **DPA Definitions**. The definition of terms used in this DPA is found in Exhibit "C". In the event of a conflict, definitions used in this DPA shall prevail over terms used in the Service Agreement to the extent such terms are used in the DPA.

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Student Data Property of School Unit**. ~~All~~ As between the parties, all Student Data transmitted to the Provider pursuant to the Service Agreement is and will continue to be ~~the~~ property of and under the control of the School Unit. The Provider further acknowledges and agrees that all copies of such Student Data transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are subject to the provisions of this DPA in the same manner as the original Student Data. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data shall remain the exclusive property of the School Unit. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the School Unit as it pertains to the use of Student Data notwithstanding the above. Provider may transfer pupil-generated content to a separate account, according to the procedures set forth below.

2. **Parent Access**. School Unit shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Student Data on the pupil's records, correct erroneous information, and procedures for the transfer of pupil-generated ~~content~~ to a personal account, consistent with the functionality of services. Provider shall respond in a reasonably timely manner (and no later than 30 days from the date of the request for Student Data related to regular education students; and without unnecessary delay for Student Data related to special education students and, for such requests made in anticipation of an IEP meeting, due process hearing, or resolution session, without unnecessary delay and before any such meeting, due process hearing, or resolution session and, in either case, in no event more than 30 days from the date of the request) to the School Unit's request for Student Data in a pupil's records held by the Provider to view or correct as necessary. In the event that a parent of a pupil or other individual contacts the

Provider to review any of the Student Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the School Unit, who will follow the necessary and proper procedures regarding the requested information.

3. **Separate Account**. Provider shall, at the request of the School Unit, transfer Student Generated Content to a separate student account.

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 School Unit. Provider shall notify the School Unit in advance of a compelled disclosure to a Third Party. ~~The Provider will not use, disclose, compile, transfer, and/or sell the Student Data and/or any portion thereof to any third party or other entity or allow any other third party or other entity to use, disclose, compile, transfer or sell the Student Data and/or any portion thereof.~~

5. **No Unauthorized Use**. Provider shall not use Student Data for any purpose other than as explicitly specified in the Service Agreement or this Agreement. Any use of Student Data shall comply with the terms of this DPA.

6. **Subprocessors**. Provider shall enter into written agreements with all Subprocessors performing functions pursuant to the Service Agreement, whereby the Subprocessors agree to protect Student Data in a manner consistent with the terms of this DPA.

ARTICLE III: DUTIES OF SCHOOL UNIT

1. **Provide Data In Compliance With FERPA**. School Unit shall provide data for the purposes of the Service Agreement in compliance with FERPA, COPPA, PPRA, IDEA, MSIPA, and MUSER and all other Maine privacy statutes and regulations referenced or identified in this DPA.

2. **Annual Notification of Rights.** If the School Unit has a policy of disclosing education records under 34 CFR § 99.31 (a) (1), School Unit shall include a specification of criteria for determining who constitutes a "school official" and what constitutes a "legitimate educational interest" in its annual notification of rights, and determine whether Provider qualifies as a "school official."

3. **Reasonable Precautions**. School Unit shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the Services and hosted data.

4. **Unauthorized Access Notification**. School Unit shall notify Provider promptly of any known or suspected unauthorized access. School Unit will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

ARTICLE IV: DUTIES OF PROVIDER

1. **Privacy Compliance**. The Provider shall comply with all applicable state and federal laws and regulations pertaining to data privacy and security, including FERPA, COPPA, PPRA, IDEA, MSIPA, MUSER and all other Maine privacy statutes and regulations identified in this DPA.

2. **Authorized Use**. The ~~data~~ Student Data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services stated in the Service Agreement ~~and/or otherwise~~ authorized under the statutes referred to in subsection (1), above. Provider also acknowledges and agrees that it shall not make any re-disclosure of any Student Data or any portion thereof, including without limitation, meta data, user content or other non-public information and/or personally identifiable information contained in the Student Data, without the express written consent of the School Unit.

3. **Employee Obligation**. Provider shall require all employees and agents who have access to Student Data to comply with all applicable provisions of this DPA with respect to the data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to Student Data pursuant to the Service Agreement.

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 School Unit, who has provided prior written consent for such transfer~~. Provider shall not copy, reproduce or transmit any ~~data~~ Student Data obtained under the Service Agreement and/or any portion thereof, except as necessary to fulfill the Service Agreement.

5. **Disposition of Data**. Provider shall dispose of or delete all ~~Student Data~~Personally Identifiable Data obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained and transfer said data to School Unit or School Unit's designee within sixty (60) days of the date of termination and according to a schedule and procedure as the Parties may reasonably agree. Nothing in the Service Agreement authorizes Provider to maintain ~~Student Data~~Personally Identifiable Data obtained under the Service Agreement beyond the time period reasonably needed to complete the disposition. Disposition shall include: (1) shredding any and all hard copies of any Student Data; and (2) erasing ~~or otherwise modifying~~ the records to make them unreadable and indecipherable. Provider shall provide written notification to School Unit when the ~~Student Data~~Personally Identifiable Data has been disposed of or deleted. The duty to dispose of or delete Student Data shall not extend to data that has been de-identified or placed in a separate student account, pursuant to the other terms of the DPA. The School Unit may employ a "Directive for Disposition of Data" Form, a copy of which is attached hereto as Exhibit "D". Upon receipt of a request from the School Unit, the Provider will immediately provide the School Unit with any specified portion of the Student Data within three (3) calendar days of receipt of said request.

6. **Advertising Prohibition**. Without limiting any other provision in this DPA, Provider is specifically prohibited from using, disclosing, or selling Student Data to (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing, advertising, or other commercial efforts by a Provider; (c) develop a profile of a student, family member/guardian or group, for any commercial purpose other than providing the Service(s) to School Unit; or (d) use the Student Data for the development of commercial products or services, other than as necessary to provide the Service(s) to School Unit or as expressly permitted by 20-A M.R.S. §953(3).

ARTICLE V: DATA PROVISIONS

1. **Data Security**. The Provider agrees to abide by and maintain commercially reasonable data security measures~~, consistent with industry standards and technology best practices,~~ to protect Student Data from unauthorized disclosure or acquisition by an unauthorized person. The general security duties of Provider are set forth below. Provider may further detail its security programs and measures in Exhibit "F" hereto. These measures shall include, but are not limited to:

   a. **Passwords and Employee Access**. Provider shall secure usernames, passwords, and any other means of gaining access to the Services or to Student Data, at a level suggested by Article 4.3 of NIST 800-63-3. Provider shall only provide access to Student Data to employees or contractors that are performing the Services. Employees and contractors with access to Student Data shall have signed confidentiality agreements regarding said Student Data. All employees with access to Student Records shall pass criminal background checks according to Provider's then current criminal background check procedures.

   b. **Destruction of Data**. Provider shall destroy or delete all ~~Student Data~~Personally Identifiable Data obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained and/or transfer said data to School Unit or School Unit's designee, according to a schedule and procedure as the parties may reasonable agree upon. Nothing in the Service Agreement authorizes Provider to maintain ~~Student~~ Personally Identifiable Data beyond the time period reasonably needed to complete the disposition.

   c. **Security Protocols**. Both parties agree to maintain security protocols ~~that meet industry best practices~~ in the transfer or transmission of any data designed so ~~, including ensuring~~ that data may only be viewed or accessed by parties legally allowed to do so. Provider shall maintain all data obtained or generated pursuant to the Service Agreement in a secure computer environment and not copy, reproduce, or transmit data obtained pursuant to the Service Agreement, except as necessary to fulfill the purpose of data requests by School Unit. The foregoing does not limit the ability of the Provider to allow any subprocessors to view or access data in accordance with Article II, Section 6.

   d. **Employee Training**. The Provider shall provide periodic security training to those of its employees who operate or have access to the system. Further, Provider shall provide

School Unit with contact information of an employee who School Unit may contact if there are any security concerns or questions.

e. **Security Technology**. When the service is accessed using a supported web browser, Secure Socket Layer ("SSL") or equivalent technology shall be employed to protect data from unauthorized access. The service security measures shall include server authentication and data encryption. Provider shall host data pursuant to the Service Agreement in an environment using a firewall that is periodically updated ~~according to industry standards~~.

f. **Security Coordinator**. Provider shall provide the name and contact information of Provider's Security Coordinator for the Student Data received pursuant to the Service Agreement.

g. **Subprocessors Bound**. Provider shall enter into written agreements whereby Subprocessors agree to secure and protect Student Data in a manner consistent with the terms of this Article V. Provider shall periodically conduct or review compliance monitoring and assessments of Subprocessors to determine their compliance with ~~this Article~~the written agreement.

h. **Periodic Risk Assessment**. Provider further acknowledges and agrees to conduct periodic risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner. ~~Upon request from School Unit, Provider shall provide School Unit with records evidencing completion of such periodic risk assessments and documenting any identified security and privacy vulnerabilities as well as the remedial measures taken to correct them.~~

i. **Backups.** Provider agrees to maintain backup copies, backed up at least daily, of Student Data in case of Provider's system failure or any other unforeseen event resulting in loss of Student Data or any portion thereof.

j. **Audits.** Upon receipt of a request from the School Unit, the Provider will allow the School Unit to audit the security and privacy measures that are in place to ensure protection of the Student ~~Record~~ Data or any portion thereof. The Provider will cooperate ~~fully~~ reasonably with the School Unit and any local, state, or federal agency with oversight authority/jurisdiction in connection with any audit or investigation of the Provider and/or delivery of Services to students and/or School Unit, and shall provide ~~full~~ reasonable access to the Provider's facilities, staff, agents and School Unit's Student Data and all records pertaining to the Provider, School Unit and delivery of Services to the Provider. The preceding sentence only applies to the extent such audits or investigations are required by law. Provider may provide an independent, third-party report in place of allowing the LEA to conduct the audit, if the LEA consents to the independent, third-party. The LEA may not unreasonably withhold its consent. ~~Failure to cooperate shall be deemed a material breach of the Agreement.~~

2. **Data Breach**. In the event that Student Data is accessed or obtained by an unauthorized individual, Provider shall provide notification to School Unit within a reasonable amount of time of the incident. Provider shall follow the following process for such notification:

   a. The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described herein under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.

   b. The security breach notification described above in section 2(a) shall include, at a minimum, the following information:

      i. The name and contact information of the reporting School Unit 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.
      v. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

   c. ~~At School Unit's discretion, the security breach notification may also include any of the following:~~

      i. ~~Information about what the agency has done to protect individuals whose information has been breached.~~
      ii. ~~Advice on steps that the person whose information has been breached may take to protect himself or herself.~~

   d. Provider agrees to adhere to all requirements in applicable state and in federal law 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.

   e. 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 School Unit, upon request, with a copy of said written incident response plan.

f. The Provider will assist the District when requested in the District's notification of ~~At the request and with the assistance of School Unit, Provider shall notify~~ the affected parent, legal guardian or eligible pupil of the unauthorized access by providing information reasonably required to provide such notifications or as otherwise required by law.~~, which shall include the information listed in subsections (b) and (c), above.~~

~~ARTICLE VI- GENERAL OFFER OF TERMS~~

~~Provider may, by signing the attached Form of General Offer of Privacy Terms (General Offer, attached hereto as Exhibit "E"), be bound by the terms of this to any other School Unit who signs the acceptance on in said Exhibit. The Form is limited by the terms and conditions described therein.~~

ARTICLE VII: MISCELLANEOUS

1. **Term**. The Provider shall be bound by this DPA for the duration of the Service Agreement or so long as the Provider maintains any Student Data. Notwithstanding the foregoing, Provider agrees to be bound by the terms and obligations of this DPA for no less than three (3) years.

2. **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.

3. **Effect of Termination Survival**. If the Service Agreement is terminated, the Provider shall dispose of and destroy all ~~of School Unit's data~~Personally Identifiable Data pursuant to Article IV, section 5, and Article V, section 1(b).

4. **Priority of Agreements**. This DPA shall govern the treatment of ~~student records~~Student Data in order to comply with the privacy protections, including those found in FERPA and all applicable privacy statutes identified in this DPA. In the event there is conflict between the terms of the DPA and the Service Agreement, or with any other bid/RFP, license agreement, terms of use, or privacy policy, or writing, the terms of this DPA shall apply and take precedence. Except as described in this paragraph, all other provisions of the Service Agreement shall remain in effect.

5. **Notice**. All notices or other communication required or permitted to be given hereunder must be in writing and given by personal delivery, facsimile or e-mail transmission (if contact information is provided for the specific mode of delivery), or first class mail, postage prepaid, sent to the designated representatives before:

   The designated representative for the Provider for this Agreement is:

Name: _____
Title: _____
Address: _____
Telephone Number: _____

Email Address: legalnotices@ixl.com

The designated representative for the School Unit for this Agreement is:

Name: Kris Stryker
Title: Director of Information Technology
Telephone Number: 2072844505 ext. 7017
Email Address: kstryker@sacoschools.org

6. **Entire Agreement**. This DPA constitutes the entire agreement of the parties relating to the subject matter hereof and supersedes all prior communications, representations, or agreements, oral or written, by the parties relating thereto. This DPA may be amended and the observance of any provision of this DPA may be waived (either generally or in any particular instance and either retroactively or prospectively) only with the signed written consent of both parties. Neither failure nor delay on the part of any party in exercising any right, power, or privilege hereunder shall operate as a waiver of such right, nor shall any single or partial exercise of any such right, power, or privilege preclude any further exercise thereof or the exercise of any other right, power, or privilege.

7. **Severability**. Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.

8. **Governing Law; Venue and Jurisdiction**. THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MAINE, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS IN CUMBERLAND COUNTY, MAINE FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

9. **Authority.** Provider represents that it is authorized to bind to the terms of this Agreement, including confidentiality and destruction of Student Data and any portion thereof contained therein, all related or associated institutions, individuals, employees or contractors who may have access to the Student Data and/or any portion thereof, or may own, lease or control equipment or facilities of any kind where the Student Data and portion thereof stored, maintained or used in any way.

10. **Waiver**. No delay or omission of the School Unit to exercise any right hereunder shall be construed as a waiver of any such right and the School Unit reserves the right to exercise any

such right from time to time, as often as may be deemed expedient.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties have executed this Maine Student Data Privacy Agreement as of the last day noted below.

IXL LEARNING, INC.

BY: _____ Date: 9/11/2019

Printed Name: Paul Mishkin Title/Position: CEO

Address for Notice Purposes: 777 Mariners Island Blvd., Suite 600
San Mateo, CA 94404

SACO SCHOOLS

BY: _____ Date: 9/11/2019

Printed Name: Title/Position: Kris Stryker - Director of Information Technology

Address for Notice Purposes: 90 Beach St.
Saco, ME 04072

EXHIBIT "A"

DESCRIPTION OF SERVICES

Description of Services are defined in Sales Contract between parties.

EXHIBIT "B"

SCHEDULE OF DATA

Category of Data	Elements	Check if used by your system
Application Technology Meta Data	IP Addresses of users, Use of cookies etc.	x
	Other application technology meta data-Please specify:	x
Application Use Statistics	Meta data on user interaction with application	x
Assessment	Standardized test scores	
	Observation data	
	Other assessment data-Please specify:	x
Attendance	Student school (daily) attendance data	
	Student class attendance data	
Communications	Online communications that are captured (emails, blog entries)	
Conduct	Conduct or behavioral data	
Demographics	Date of Birth	
	Place of Birth	
	Gender	
	Ethnicity or race	
	Language information (native, preferred or primary language spoken by student)	
	Other demographic information-Please specify:	
Enrollment	Student school enrollment	
	Student grade level	
	Homeroom	
	Guidance counselor	
	Specific curriculum programs	
	Year of graduation	
	Other enrollment information-Please specify:	
Parent/Guardian Contact Information	Address	
	Email	
	Phone	
Parent/Guardian ID	Parent ID number (created to link parents to students)	
Parent/Guardian Name	First and/or Last	
Schedule	Student scheduled courses	
	Teacher names	
Special Indicator	English language learner information	
	Low income status	
	Medical alerts /health data	
	Student disability information	

	Specialized education services (IEP or 504)	
	Living situations (homeless/foster care)	
	Other indicator information-Please specify:	
Category of Data	**Elements**	**Check if used by your system**
Student Contact Information	Address	
	Email	x
	Phone	
Student Identifiers	Local (School district) ID number	x
	State ID number	x
	Vendor/App assigned student ID number	x
	Student app username	x
	Student app passwords	x
Student Name	First and/or Last	x
Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)	x
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	

Student Survey Responses	Student responses to surveys or questionnaires	
Student work	Student generated content; writing, pictures etc.	
	Other student work data -Please specify:	
Transcript	Student course grades	
	Student course data	
	Student course grades/performance scores	
	Other transcript data -Please specify:	
Transportation	Student bus assignment	
	Student pick up and/or drop off location	
	Student bus card ID number	
	Other transportation data - Please specify:	
Other	Please list each additional data element used, stored or collected by your application:	

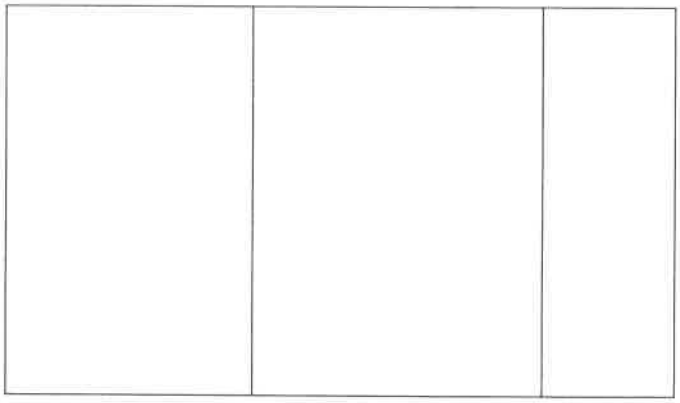

EXHIBIT "C"

DEFINITIONS

METDA (Maine Educational Technology Directors Association): Refers to the membership organization serving educational IT professionals in the state of Maine to promote general recognition of the role of IT professionals in educational institutions; improve network and computer services; integrate emerging technologies; encourage appropriate use of information technology for the improvement of education and support standards whereby common interchanges of electronic information can be accomplished efficiently and effectively.

~~**Covered Information:** Covered Information means materials that regard a student that are in any media or format and includes materials as identified by MSIPA. The categories of Covered Information under Maine law are found in Exhibit B. For purposes of this DPA, Covered Information is referred to as Student Data.~~

~~**Educational Records:** Educational Records are official records, files and data directly related to a student and maintained by the school or school unit, including but not limited to, records encompassing all the material kept in the student's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement, and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs and 504 plans. The categories of Educational Records under Maine law are also found in Exhibit B. For purposes of this DPA, Educational Records are referred to as Student Data.~~

De-Identifiable Information (DII): De-Identification refers to the process by which the Provider removes or obscures any Personally Identifiable Information ("PII") from student records in a way that removes or minimizes the risk of disclosure of the identity of the individual and information about them.

NIST 800-63-3: Draft National Institute of Standards and Technology ("NIST") Special Publication 800-63-3 Digital Authentication Guideline.

~~**Operator:** The term "Operator" means the operator of an Internet Website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for K–12 school purposes and was designed and marketed for K–12 school purposes. This term shall encompass the term "Third Party," as it is found in applicable state statues.~~

Personally Identifiable Information (PII): The terms "Personally Identifiable Information" or "PII" ~~shall include, but are not limited to, student data, metadata, and user or pupil-generated content obtained by reason of the use of Provider's software, website, service, or app, including mobile apps, whether gathered by Provider or provided by School Unit or its users, students, or students' parents/guardians. PII includes Indirect Identifiers, which is any information that, either alone or in aggregate or combination, would allow a reasonable person who does not have knowledge of the relevant circumstances to be able to identify a student. For purposes of this DPA, Personally Identifiable Information shall include the categories of information listed in the definition of Student Data.~~ refers to "student personally identifiable information" as defined in 20-A M.R.S. §952.

~~**Provider:** For purposes of the Service Agreement, the term "Provider" means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records. Within the DPA, the term "Provider" includes the term "Third Party" and the term "Operator" as used in applicable state statutes.~~

~~**Pupil** Student **Generated Content:** The term "pupil-generated content" means materials or content created by a pupil during and for the purpose of education including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, videos, and account information that enables ongoing ownership of pupil content.

~~**Pupil Records:** Means both of the following: (1) Any information that directly relates to a pupil that is maintained by School Unit and (2) any information acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other School Unit employee. For the purposes of this Agreement, Pupil Records shall be the same as Educational Records and Covered Information.~~

~~**Service Agreement:** Refers to the Contract or Purchase Order that this DPA supplements and modifies.~~

School Official: For the purposes of this Agreement and pursuant to 34 CFR 99.31 (B), a School Official is a contractor that: (1) Performs an institutional service or function for which the agency or institution would otherwise use employees; (2) Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and (3) Is subject to 34 CFR 99.33(a) governing the use and re-disclosure of personally identifiable information from student records.

Student Data: The term Student Data is defined as set forth in 20-A M.R.S. §952. ~~includes any data, whether gathered by Provider or provided by School Unit 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, home address, telephone number, email address, or other information allowing 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, food purchases, political affiliations, religious information text messages, documents, student identifies, search activity, photos, voice recordings or geolocation information. Student Data shall constitute Pupil Records for the purposes of this Agreement, and for the purposes of Massachusetts and Federal laws and regulations.~~ Student Data as specified in Exhibit B is confirmed to be collected or processed by the Provider pursuant to the Services. For the purposes of this Agreement, Student Data shall not constitute that information that has been anonymized or de-identified, or anonymous usage data regarding a student's use of Provider's services.

SDPC (The Student Data Privacy Consortium): Refers to the national collaborative of schools, districts, regional, territories and state agencies, policy makers, trade organizations and marketplace providers addressing real-world, adaptable, and implementable solutions to growing data privacy concerns.

Subscribing School Unit: A School Unit that was not party to the original Services Agreement and who accepts the Provider's General Offer of Privacy Terms.

Subprocessor: For the purposes of this Agreement, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than School Unit or Provider, who Provider uses for data collection, analytics, storage, or other service to operate and/or improve its software, and who has access to PII.

Targeted Advertising: The term Targeted Aadvertising ~~means presenting an advertisement to a student where the selection of the advertisement is based on student information, student records or student generated content or inferred over time from the usage of the Provider's website, online service or mobile application by such student or the retention of such student's online activities or requests over time.~~is defined as set forth in 20-A M.R.S. §952.

Third Party: The term "Third Party" means ~~a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records. However, for the purpose of this Agreement, the term "Third Party" when used to indicate the provider of digital educational software or services is replaced by the term "Provider."~~a person other than District, Provider, or a Subprocessor.

EXHIBIT "D"

DIRECTIVE FOR DISPOSITION OF DATA

~~RSU 25~~ ("School Unit") directs **IXL** ("Company") to dispose of data obtained by Company pursuant to the terms of the Service Agreement between School Unit and Company. The terms of the Disposition are set forth below:

1. Extent of Disposition

____ Disposition is partial. The categories of data to be disposed of are set forth below or are found in an attachment to this Directive:

- **[Insert categories of data here]**

__✓__ Disposition is Complete. Disposition extends to all categories of data.

2. Nature of Disposition

___ Disposition shall be by destruction or deletion of data.

__✓__ Disposition shall be by a transfer of data. The data shall be transferred to the following site as follows:

- **[Insert or attach special instructions.]**

3. Timing of Disposition

Data shall be disposed of by the following date:

__✓__ As soon as commercially practicable

_____ By **[Insert Date]**

4. Signature

_____ 9/11/2019

Authorized Representative of School Unit — Date

5. Verification of Disposition of Data

_____ _____

Authorized Representative of Company — Date

EXHIBIT "E"

GENERAL OFFER OF PRIVACY TERMS

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and **RSU 25** and which is dated **January 16, 2019** to any other School Unit ("Subscribing School Unit") who accepts this General Offer though 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 other School Unit may also agree to change the data provide by School Unit to the Provider to suit the unique needs of the School Unit. The Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statues; (2) a material change in the services and products subject listed in the Originating Service Agreement; or three (3) years after the date of Provider's signature to this Form. Provider shall notify the either the METDA or SDPC in the event of any withdrawal so that this information may be transmitted to the Alliance's users.

IXL

BY: _____ Date: _____

Printed Name: _____ Title/Position: _____

2. Subscribing School Unit

A Subscribing School Unit, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing School Unit and the Provider shall therefore be bound by the same terms of this DPA.

BY: _____ Date: _____

Printed Name: _____

Title/Positon _____ DELETED

EXHIBIT "F" DATA SECURITY REQUIREMENTS

IXL Security Policies and Procedures is attached