

## DATA PROTECTION ADDENDUM - ILLINOIS

This Data Protection Addendum is attached to and forms a part of the Infinite Campus End User License Agreement (“EULA”), by and between Infinite Campus, Inc. (“Infinite Campus”) and East Aurora School District 131 (“District”). This Addendum supersedes the EULA by adding to, deleting from and modifying the EULA as set forth herein. To the extent any such addition, deletion or modification results in any conflict or inconsistency between the EULA and this Addendum, this Addendum shall govern and the terms of the EULA that conflict with this Addendum or are inconsistent with this Addendum shall be of no force or effect. In consideration of the mutual covenants, promises, understandings, releases and payments described in the EULA and this Addendum, the Parties agree to amend the EULA by adding the following language:

### 1. Definitions

- 1.1 “*Designated Representative*” means District or Infinite Campus employees as specified on Schedule 1 to whom all notices required in this Addendum will be sent.
- 1.2 “*District Data*” means any Personally Identifiable Information, Record, Education Record and all Personally Identifiable Information included therein or derived therefrom that is not intentionally made generally available by the District on public websites or publications but is made available directly or indirectly by the District to Infinite Campus or that is otherwise collected or generated by Infinite Campus in connection with the performance of the Services. District Data includes any and all “covered information” as that term is defined in Section 5 of SOPPA (105 ILCS 85/5), and District Data shall constitute “school student records” as that term is defined in Section 2 of ISSRA (105 ILCS 10/2(d)).
- 1.3 “*De-identified Data*” means District Data from which all Personally Identifiable Information and attributes about such data, have been permanently removed so that no individual identification can be made.
- 1.4 “*Education Records*” means records, files, documents and other materials that: (a) contain information directly related to a student; and (b) are maintained by the District, or by a party acting for the District such as Infinite Campus.
- 1.5 “*End User*” means individuals authorized by the District to access and use the Services provided by Infinite Campus under the EULA.
- 1.6 “*Incident*” means a suspected, attempted, or imminent threat of unauthorized access, use, disclosure, breach, modification, disruption or destruction to or of District Data.
- 1.7 “*Mine District Data*” means the act of searching through, analyzing, accessing, or extracting District Data, metadata, or information not necessary to accomplish the Services or purpose(s) of this Agreement for the benefit of the District.
- 1.8 “*Personally Identifiable Information*” or “*PII*” means information and metadata that, alone or in combination, is linked or linkable to a specific student so as to allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty. Personally identifiable information includes but is not limited to: (a) the student’s name; (b) the name of the student’s parent or other family members; (c) the address or phone number of the student or student’s family; (d) personal identifiers such as the student’s state-assigned student identifier, social security number, student number or biometric record; (e) indirect identifiers such as the student’s date of birth, place of birth or mother’s maiden name; and (f) demographic attributes, such as race, socioeconomic information, and gender.
- 1.9 “*Record*” means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.
- 1.10 “*Securely Destroy*” means to remove District Data from Infinite Campus’ systems, paper files, records, databases, and any other media regardless of format, in accordance with the standard detailed in National Institute of Standards and Technology (“NIST”) SP 800-88 Guidelines for Media Sanitization so that District Data is permanently irretrievable in Infinite Campus’ and its Subcontractors’ normal course of

business.

- 1.11 “*Security Breach*” means an event in which District Data is exposed to unauthorized disclosure, access, alteration or use or a system configuration that results in a documented unsecured disclosure, access, alteration or use, in a manner not permitted in this Addendum, which poses a significant risk of financial, reputational or other harm to the affected End User or the District.
- 1.12 “*Services*” means any goods or services acquired by the District from Infinite Campus, including computer software, mobile applications (apps), and web-based tools accessed by End Users through the Internet or installed or run on a computer or electronic device.
- 1.13 “*Subcontractor*” means Infinite Campus’ employees, subcontractors or agents, identified on Schedule 2, as updated by Infinite Campus from time to time in accordance with the requirements of this Addendum, who Infinite Campus has engaged to enable Infinite Campus to perform its obligations under the EULA.
- 1.14 “*Student Profile*” means a collection of PII data elements relating to a student of the District.

## 2. Rights and License in and to District Data

The District owns all rights, title, and interest in and to District Data. The District hereby grants to Infinite Campus a limited, nonexclusive license to use District Data and De-identified Data solely for the purpose of performing its obligations specified in the EULA or as otherwise permitted by the Agreement. Infinite Campus shall have no rights, title, or interest implied or otherwise, to District Data or De-identified Data, except as expressly stated in the Agreement.

## 3. Data Privacy

- 3.1 Use of District Data. Infinite Campus shall use District Data only for the purpose of performing the Services and fulfilling its duties under the EULA.
- 3.2 Prohibited Uses of District Data. With the exception of De-identified Data that the District has agreed in writing to allow Infinite Campus to use as specified in Section 3.5, Infinite Campus shall not:
  - 3.2.1 Use, sell, rent, transfer, distribute, alter, mine, or disclose District Data (including metadata) to any third party without the prior written consent of the District, except as required by law;
  - 3.2.2 Use District Data for its own commercial benefit, including but not limited to, advertising or marketing of any kind directed toward children, parents, guardians, or District employees, unless such use is specifically authorized by this Agreement or otherwise authorized in writing by the District;
  - 3.2.3 Use District Data in a manner that is inconsistent with Infinite Campus’ privacy policy;
  - 3.2.4 Use District Data to create a Student Profile other than as authorized or required by the District to perform the Services; and
  - 3.2.5 Store District Data outside the continental United States unless Infinite Campus has given the District Designated Representative advance written notice of where and how the servers are housed, managed, and secured, and that the security standards required herein can be achieved.
- 3.3 Qualified FERPA Exception. If Infinite Campus will have access to Education Records, Infinite Campus acknowledges that, for the purposes of this Agreement, pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and its implementing regulations, 34 C.F.R. Part 99 (“FERPA”), it will be designated as a “school official” with “legitimate educational interests” in the District Education Records and PII disclosed pursuant to the EULA, and Infinite Campus agrees to abide by the FERPA limitations and requirements imposed on school officials. Infinite Campus will use the Education Records only for the purpose of fulfilling its duties under the EULA. Infinite Campus is performing an institutional service for which the school would otherwise use employees, is under the direct control of the District, for District’s

and its End Users' benefit and shall not share District Data with or disclose it to any third party except as provided for in the Agreement, as required by law, or if authorized in writing by the District. Infinite Campus warrants and represents that during the five-year period preceding the Effective Date of this Agreement, it has not been found in violation of FERPA by the Family Policy Compliance Office.

- 3.4 Subcontractor Use of District Data. To the extent necessary to perform its obligations specified in the EULA, Infinite Campus may disclose District Data to Subcontractors pursuant to a written agreement, specifying the purpose of the disclosure and providing that: (a) Subcontractor shall not disclose District Data, in whole or in part, to any other party; (b) Subcontractor shall not use any District Data to advertise or market to students or their parents/guardians; (c) Subcontractor shall access, view, collect, generate and use District Data only to the extent necessary to assist Infinite Campus in performing its obligations specified in the EULA; (d) at the conclusion of its/their work under its/their subcontract(s) Subcontractor shall, as directed by the District through Infinite Campus, Securely Destroy all District Data in its/their possession, custody or control, or return such District Data to the District, at the election of the District; (e) Subcontractor shall indemnify the District in accordance with the terms set forth in Section 10 herein below; and (f) Subcontractor shall utilize appropriate administrative, physical and technical safeguards in accordance with industry standards and best practices to secure District Data from unauthorized disclosure, access and use. Infinite Campus shall ensure that its employees and Subcontractors who have access to District Data have undergone appropriate background screening, including Criminal Records Search, (County), SSN Death Master Search, Sex Offender Registry Search, and Smart Scan, and possess all needed qualifications to comply with the terms of this Addendum.
- 3.5 Use of De-identified Data. Infinite Campus may use De-identified Data for purposes of research, the improvement of Infinite Campus' products and services, and the development of new products and services. In no event shall Infinite Campus or Subcontractors re-identify or attempt to re-identify any De-identified Data or use De-identified Data in combination with other data elements or De-identified Data in the possession of a third-party affiliate, thereby posing risks of re-identification.
- 3.6 Privacy Policy Changes. Prior to making a material change to Infinite Campus' privacy policies, Infinite Campus shall send District's Designated Representative written notice, which includes a clear explanation of the proposed changes.

#### **4. Data Security**

- 4.1 Security Safeguards. Infinite Campus shall store and process District Data in accordance with commercial best practices, including implementing appropriate administrative, physical, and technical safeguards that are no less rigorous than those outlined in SANS Top 20 Security Controls, as amended, to secure such data from unauthorized access, disclosure, alteration, and use. Infinite Campus shall ensure that all such safeguards, including the manner in which District Data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with all applicable federal and state data protection and privacy laws, regulations and directives, as well as the terms and conditions of this Addendum. Without limiting the foregoing, and unless expressly agreed to the contrary in writing, Infinite Campus warrants that all electronic District Data will be encrypted in transmission and at rest in accordance with NIST Special Publication 800-53, as amended.
- 4.2 Risk Assessments. Infinite Campus shall conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.
- 4.3 Audit Trails. Infinite Campus shall take reasonable measures, including the availability of Data Change Tracker functionality (if purchased), to protect District Data against deterioration or degradation of data quality and authenticity.
- 4.4 Verification of Safeguards. Upon District's written request, Infinite Campus shall provide or make available to the District for review, the following, verifying Infinite Campus' administrative, physical and technical safeguards are in compliance with industry standards and best practices: (1) a third-party network security audit report, or (2) certification from Infinite Campus indicating that an independent vulnerability or risk assessment of Infinite Campus' data security program has occurred.

## 5. Security Incident and Security Breach

- 5.1 Security Incident Evaluation. In the event of an Incident, Infinite Campus shall follow industry best practices to fully investigate and resolve the Incident and take steps to prevent developments that may result in the Incident becoming a Security Breach at Infinite Campus' expense in accordance with applicable privacy laws.
- 5.2 Response. Immediately upon becoming aware of a Security Breach, or a complaint of a Security Breach, Infinite Campus shall notify the District Designated Representative in writing as set forth herein, fully investigate the Security Breach, cooperate fully with the District's investigation of and response to the Security Breach, and use commercially reasonable efforts to prevent any further Security Breach at Infinite Campus' expense in accordance with applicable privacy laws. Except as otherwise required by law, Infinite Campus shall not provide notice of the Security Breach directly to individuals whose Personally Identifiable Information was involved, to regulatory agencies, or to other entities, without first providing written notice to the District's Designated Representative.
- 5.3 Security Breach Report. If the District reasonably determines that Infinite Campus has committed a Security Breach, then the District may request Infinite Campus to submit, within seven (7) calendar days from discovery of such breach, a written report, and any supporting documentation, identifying (i) the nature of the Security Breach, (ii) the steps Infinite Campus has executed to investigate the Security Breach, (iii) what District Data or PII was used or disclosed, (iv) who or what was the cause of the Security Breach, (v) what Infinite Campus has done or shall do to remediate any deleterious effect of the Security Breach, and (vi) what corrective action Infinite Campus has taken or shall take to prevent a future Incident or Security Breach. The District reserves the right to require Infinite Campus to amend its remediation plans.
- 5.4 Effect of Security Breach. Upon the occurrence of a Security Breach caused by inadequacies in Infinite Campus' security systems, procedures, and or firewalls, the District may terminate this Agreement in accordance with District policies. The District may require Infinite Campus to suspend all Services, pending the investigation and successful resolution of any Security Breach, and Infinite Campus may be required to reimburse District all amounts paid for any period during which Services were not rendered, as provided herein. Infinite Campus acknowledges that, as a result of a Security Breach, the District may also elect to disqualify Infinite Campus and any of its Subcontractors from future contracts with the District. These provisions do not go into effect as a result of a Security Breach caused by the District or an individual user who self-compromises their own PII or user credentials.
- 5.5 Liability for Security Breach. In addition to any other remedies available to the District under law or equity, Infinite Campus shall reimburse the District in full for all costs incurred by the District in investigation and remediation of any Security Breach caused by Infinite Campus or Infinite Campus' Subcontractors, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract.

## 6. Response to Legal Orders, Demands or Requests for Data

Note: In this section, when referring to data, it refers to data that is not customarily available to the district through the Student Information System. In most cases, the District will be able to access the data it needs as part of normal operations of the Student Information System.

- 6.1 Received by Infinite Campus. Except as otherwise expressly prohibited by law, Infinite Campus shall immediately notify the District of any subpoenas, warrants, other legal orders, or demands or requests received by Infinite Campus seeking District Data; consult with the District regarding its response; cooperate with the District's reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and, upon the District's request, provide the District with a copy of its response.
- 6.2 Received by District. If the District receives a subpoena, warrant, or other legal order, demand or request seeking District Data maintained by Infinite Campus, the District will promptly notify Infinite Campus and, within two (2) business days, excluding national holidays, Infinite Campus shall supply the District with copies of the District Data for the District to respond. If the requested data is so large that it cannot be

reasonably compiled and provided within 2 days, Infinite Campus shall inform the District of the reasons why the data cannot be compiled and provided within 2 days and how long it will take under reasonable conditions and at what cost to the District.

- 6.3 Parent Request. If a parent, legal guardian or student contacts the District with a request to review or correct District Data or PII, pursuant to FERPA, the District will promptly notify Infinite Campus' Designated Representative and Infinite Campus shall use reasonable and good faith efforts to assist the District in fulfilling such requests, as directed by the District, within ten calendar (10) days after receipt of District's notice with standard fees applied. Conversely, if a parent, legal guardian or student contacts Infinite Campus with a request to review or correct District Data or PII, within ten calendar (10) days after receipt of such notice, Infinite Campus shall promptly notify the District and shall use reasonable and good faith efforts to assist the District in fulfilling such requests, as directed by the District.
- 6.4 Access to District Data. District shall have the right to access and retrieve any or all District Data stored by or in possession of Infinite Campus upon written notice to Infinite Campus' Designated Representative. If another timeline for response is provided herein, then that, more specific, deadline shall control. Otherwise, Infinite Campus shall make the District Data available to the District within seven (7) calendar days from the date of request.

## 7. Compliance with Applicable Law

- 7.1 School Service Contract Providers. If Infinite Campus provides a "school service," which is defined as an Internet website, online service, online application or mobile application that: (a) is designed and marketed primarily for use in a preschool, elementary school or secondary school; (b) is used at the direction of District teachers or other District employees; and (c) collects, maintains or uses District Data or PII, then Infinite Campus is a "school service contract provider" under the Act. To the extent not previously provided, within ten (10) calendar days after signing this Addendum, Infinite Campus shall provide to the District in a format acceptable to the District or that is easily accessible through Infinite Campus' website in language easily understandable to a layperson: (a) the data elements of District Data or PII that Infinite Campus collects, generates or uses pursuant to the EULA; (b) the educational purpose for which Infinite Campus collects and uses the District Data; (c) Infinite Campus' policies regarding retention and disposal of District Data; (d) how Infinite Campus uses, shares or discloses the District Data; and (e) statement whether Infinite Campus' EULA has ever been terminated by another school district for failure to comply with the same or substantially similar security obligations as those set forth herein. Infinite Campus shall update this information as necessary to maintain accuracy. District reserves the right to terminate this Agreement, as specified in Section 8, should the District receive information after the Effective Date that significantly modifies Infinite Campus' representations made in this Section 7.1.
- 7.2 Children's Online Privacy and Protection Act. In performance of the Services required by the EULA, if Infinite Campus collects personal information (as defined in the Children's Online Privacy and Protection Act of 1998, 5 U.S.C. 6501 to 6505, and its implementing regulations) from children under thirteen (13) years of age, Infinite Campus warrants, represents, and covenants that such collection is and shall be for the use and benefit of the District and for no other commercial purpose. Infinite Campus has provided District with full notice of its collection, use, and disclosure practices.
- 7.3 Compliance with Laws. Infinite Campus warrants that it will abide by all applicable laws, ordinances, rules, regulations, and orders of all governmental agencies or authorities having jurisdiction over the Services including but not limited to: COPPA; FERPA; the Health Insurance Portability and Accountability Act, 45 C.F.R. Part 160.103, and Health Information Technology for Economic and Clinical Health Act, Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 U.S.C. 6809; Payment Card Industry Data Security Standards; Protection of Pupil Rights Amendment, 20 U.S.C. 1232h, 34 C.F.R. Part 98; Americans with Disabilities Act, and Federal Export Administration Regulations.

## 8. Termination

- 8.1 Term. This Addendum will become effective when Infinite Campus has executed this Addendum ("Effective Date"). Subject to Sections 8.2 and 12.3, this Addendum will automatically terminate without

any further action of the Parties upon the termination or expiration of the EULA between the Parties or successful completion of the Services. Alternatively, upon re-execution of the EULA by the authorized persons of District and Infinite Campus, this Addendum shall also be revived and be of full force and effect.

## 8.2 Termination by the District.

8.2.1 The District may immediately terminate the EULA in accordance with District policies if, at any time, the District determines in its sole discretion, that Infinite Campus has breached any of the requirements of this Addendum.

8.2.2 The District may terminate the EULA if District receives information that Infinite Campus has failed to comply with the same or substantially similar security obligations as set forth herein with another school district.

8.2.3 The District may terminate the EULA if the District receives information after execution of this Addendum, that any of Infinite Campus' representations or warranties have substantially changed after execution of this Addendum, including but not limited to the terms of Infinite Campus' privacy policy.

## 9. **Data Transfer Upon Termination or Expiration**

9.1 Destruction or Return of District Data. With the exception of De-identified Data that District has specifically agreed in writing to allow Infinite Campus to use after termination or expiration of this Agreement, or District Data for which Infinite Campus has specifically obtained consent from the parent, legal guardian or student to keep, within thirty (30) calendar days after termination or expiration of this Agreement, Infinite Campus shall ensure that all District Data and PII that Infinite Campus collected, generated or inferred pursuant to the EULA ("EULA Data"), is securely returned or Securely Destroyed, as directed by the District. In the event that the District requests destruction, Infinite Campus agrees to Securely Destroy all District Data and EULA Data that is in its possession and cause its Subcontractors to Securely Destroy all District Data and EULA Data that is in the possession of any Subcontractors. If the District requests return, Infinite Campus shall securely return all District Data and EULA Data to the authorized person specified by the District, using the methods requested by the District, in its discretion, including any applicable fees charged to the District by Infinite Campus. Infinite Campus shall promptly certify in writing to District that such District Data and EULA Data has been disposed of or returned securely.

9.2 Transfer and Destruction of District Data. If the District elects to have all District Data or EULA Data that is in Infinite Campus' possession or in the possession of Infinite Campus' Subcontractors transferred to a third party designated by the District, such transfer shall occur within a reasonable period of time but no later than thirty (30) calendar days after expiration or termination of this Agreement, and without significant interruption in service or access to such District Data. Infinite Campus shall work closely with such third-party transferee to ensure that such transfer/migration uses facilities and methods are compatible with the relevant systems of the District or its transferee, and to the extent technologically feasible, that the District will have reasonable access to District Data during the transition. District will pay all costs associated with such transfer, unless such transfer is as the result of termination of this Agreement following Infinite Campus' breach of the terms of this Agreement. Upon successful transfer of District Data, as confirmed in writing by the District's Designated Representative, Infinite Campus shall Securely Destroy all District Data in accordance with Section 9.1.

9.3 Response to Specific Data Destruction or Return Requests. Infinite Campus shall Securely Destroy or return any specific District Data or EULA Data that is in its possession or in the possession of its Subcontractors within five (5) business days, excluding national holidays, after receiving a written request from the District.

## 10. **Indemnification**

Infinite Campus shall indemnify and hold harmless District and its directors, employees, board members and agents from and against all losses, damages, liabilities, deficiencies, actions, judgments, interest, award, penalties, fines, costs or

expenses, including attorneys' fees, the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, arising out of or resulting from any third-party claim against District or its directors, employees, board members and agents arising out of or resulting from Infinite Campus' failure to comply with any of its obligations under Sections 3, 4, 5, and 9 of this Addendum. These indemnification duties shall survive termination or expiration of this Agreement.

## 11. Miscellaneous

- 11.1 No End User Agreements. In the event that Infinite Campus enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with End Users, the Parties agree that in the event of a conflict between the terms of any such agreement and this Addendum, the terms of this Addendum and the Agreement, in that order of precedence, shall control.
- 11.2 Public Inspection of Agreement. Infinite Campus acknowledges and agrees that this Agreement and all documents Infinite Campus provides District as required herein, are public records for purposes of SOPPA and shall at all times be subject to public inspection.
- 11.3 Survival. Infinite Campus' obligations under Sections 3, 4, 5, 6, 9, and 10, and any other obligations or restrictions that expressly or by their nature are to continue after termination, shall survive termination of this Agreement for any reason until all District Data has been returned or Securely Destroyed.
- 11.4 Governing Law. This Addendum shall be governed and construed in accordance with the laws of Illinois, excluding its choice of law rules. In performing their respective obligations under the Agreement, both parties shall comply with all Illinois laws and regulations pertaining to student data privacy and confidentiality, including but not limited to the Illinois School Student Records Act ("ISSRA"), 105 ILCS 10/, Mental Health and Developmental Disabilities Confidentiality Act ("MHDDCA"), 70 ILCS 110/, Student Online Personal Protection Act ("SOPPA"), 105 ILCS 85/, Identity Protection Act ("IPA"), 5 ILCS 179/, and Personal Information Protection Act ("PIPA"), 815 ILCS 530/.
- 11.5 No Assignment. Except for the sale of the business to which this Addendum relates, Infinite Campus shall not assign or subcontract any of its rights or obligations hereunder without the express written consent of District, which will not be unreasonably withheld.
- 11.6 No Third-Party Beneficiaries. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than District.
- 11.7 Schedules. The following schedules are attached hereto, or shall be attached hereto, and are specifically made a part hereof by this reference:  
  
Schedule 1 -- Designated Representatives  
Schedule 2 -- Subcontractors
- 11.8 Counterparts. This Addendum may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**SCHEDULE 1  
District/Infinite Campus Designated Representative**


<b>DISTRICT REPRESENTATIVE</b>	<b>INFINITE CAMPUS REPRESENTATIVE</b>
Name: Andrew Allen Title: CIO Address: 417 Fifth Street Aurora, IL 60505 Phone: 630.299.7319 E-mail: <a href="mailto:aallen@d131.org">aallen@d131.org</a>	Name: Brian Page Title: CFO Address: 4321 109th Ave. NE Blaine, MN 55449 Phone: 800.850.2335 E-mail: <a href="mailto:Brian.Page@infinitecampus.com">Brian.Page@infinitecampus.com</a>

**SCHEDULE 2  
Subcontractors**


Infinite Campus shall update this information as necessary to maintain accuracy and shall send revised attachments, exhibits or schedules to the District's Representative.

Name of Subcontractor	Computer Information Concepts, Inc. (CIC)
Primary Contact Person	Steven K. Bohlender
Subcontractor Address	2843 31 <sup>st</sup> Avenue, Greeley, CO 80631
Subcontractor Phone/email	800.437.7457 x-123 / <a href="mailto:sbohlender@cicesp.com">sbohlender@cicesp.com</a>
Purpose of re-disclosure to Subcontractor	CIC is the authorized Infinite Campus Illinois Channel Partner, providing implementation and support services

**Infinite Campus, Inc.**

By:   
Stephanie Svoboda (Oct 21, 2021 10:22 CDT)  
 Name: Stephanie Svoboda  
 Its: Authorized Signer  
 Date: Oct 21, 2021

**East Aurora School District 131**

By:   
Andrew J Allen (Nov 16, 2021 16:06 CST)  
 Name: Andrew J Allen  
 Its: Executive Director of Information Systems  
 Date: Nov 16, 2021