

WISCONSIN STUDENT DATA PRIVACY AGREEMENT

School District/Local Education Agency: Oconto Falls Public Schools

AND

Provider: Class Intercom, LLC

Date: February 14, 2022

This Wisconsin Student Data Privacy Agreement (“DPA”) is entered into by and between the Oconto Falls Public Schools (hereinafter referred to as “LEA”) and Class Intercom, LLC (hereinafter referred to as “Provider”) on February 14, 2022. The Parties agree to the terms as stated herein.

RECITALS

WHEREAS, the Provider has agreed to provide the Local Education Agency (“LEA”) with certain digital educational services (“Services”) pursuant to a contract dated February 14, 2022 (“Service Agreement”); and

WHEREAS, in order to provide the Services described in the Service Agreement, the Provider may receive or create, and the LEA may provide documents or data that are covered by several federal statutes, among them, the Family 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. 6501-6506; Protection of Pupil Rights Amendment (“PPRA”) 20 U.S.C. 1232h; and

WHEREAS, the documents and data transferred from LEAs and created by the Provider’s Services are also subject to Wisconsin state student privacy laws, including pupil records law under Wis. Stat. § 118.125 and notice requirements for the unauthorized acquisition of personal information under Wis. Stat. § 134.98; and

WHEREAS, for the purposes of this DPA, Provider is a school district official with legitimate educational interests in accessing educational records pursuant to the Service Agreement; 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” (Exhibit “E”), agree to allow other LEAs in Wisconsin 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 LEA pursuant to the Service Agreement, including compliance with all applicable statutes, including the FERPA, PPRA, COPPA, and applicable Wisconsin law, all as may be amended from time to time. In performing these services, the Provider shall be considered a School District Official with a legitimate educational interest, and performing services otherwise provided by the LEA. With respect to the use and maintenance of Student Data, Provider shall be under the direct control and supervision of the LEA.

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

Class Intercom, LLC provides a software platform for schools, school districts and other organizations to create, manage and measure its social media activities on its own Twitter, Instagram, and Facebook accounts (the “Services”). The following are the terms and conditions for use of the Services by the person or persons accessing the software platform (the “Customer”).

3. **Student Data to Be Provided**. The Parties shall indicate the categories of student data to be provided in the Schedule of Data, attached hereto as Exhibit “B”.

Student Name and School Email Address

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 term used in the Service Agreement.

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Student Data Property of LEA**. 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 LEA. 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 Agreement 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 contemplated per the Service Agreement shall remain the exclusive property of the LEA. For the purposes of FERPA, the Provider shall be considered a School District Official, under the control and direction of the LEAs 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**. LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Student Data in 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 timely manner (and no later than 30 days from the date of the request) to the LEA’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 LEA, who will follow the necessary and proper procedures regarding the requested information.
3. **Separate Account**. If pupil generated content is stored or maintained by the Provider as

part of the Services described in Exhibit “A”, Provider shall, at the request of the LEA, transfer said pupil generated content to a separate student account upon termination of the Service Agreement; provided, however, such transfer shall only apply to pupil generated content that is severable from the Service.

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 as soon as possible in advance of a compelled disclosure to a Third Party.

5. **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 manner consistent with the terms of this DPA, as well as state and federal law.

ARTICLE III: DUTIES OF LEA

1. **Privacy Compliance.** LEA shall provide data for the purposes of the Service Agreement in compliance with FERPA, COPPA, PPRA, and applicable Wisconsin law.

2. **Annual Notification of Rights.** The LEA shall include a specification of criteria under FERPA for determining who constitutes a school official and what constitutes a legitimate educational interest in its Annual notification of rights.

3. **Reasonable Precautions.** LEA 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.** LEA shall notify Provider promptly of any known or suspected unauthorized access. LEA 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, and applicable Wisconsin law.

2. **Authorized Use.** The 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 LEA.

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.

4. **No Disclosure.** 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.

5. **Disposition of Data.** Upon written request and in accordance with the applicable terms in subsection a or b, below, Provider shall dispose or delete all Student Data obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained. Disposition shall include (1) the shredding of any hard copies of any student data; (2) erasing; or (3) otherwise modifying the personal information in those records to make it unreadable or indecipherable by human or digital means. Nothing in the Service Agreement authorizes Provider to maintain Student Data obtained under the Service Agreement beyond the time period reasonably needed to complete the disposition. Provider shall provide written notification to LEA when the Student Data has been disposed. The duty to dispose of 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 LEA may employ a “Request for Return or Deletion of Student Data” form, a copy of which is attached hereto as Exhibit “D”. Upon receipt of a request from the LEA, the Provider will immediately provide the LEA with any specified portion of the Student Data within ten (10) calendar days of receipt of said request.

a. **Partial Disposal During Term of Service Agreement.** Throughout the Term of the Service Agreement, LEA may request partial disposal of Student Data obtained under the Service Agreement that is no longer needed. Partial disposal of data shall be subject to LEA’s request to transfer data to a separate account, pursuant to Article II, section 3, above.

b. **Complete Disposal Upon Termination of Service Agreement.** Upon Termination of the Service Agreement Provider shall dispose or delete all Student Data obtained under the Service Agreement. Prior to disposition of the data, Provider shall notify LEA in writing of its option to transfer data to a separate account, pursuant to Article II, section 3, above. In no event shall Provider dispose of data pursuant to this provision unless and until Provider has received affirmative written confirmation from LEA that data will not be transferred to a separate account.

6. **Advertising Prohibition.** Provider is prohibited from using 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 to LEA; or (d) use the Student Data for the development of commercial products or services, other than as necessary to provide the Service to LEA. This section does not prohibit Provider from using

Student Data for adaptive learning or customized student learning purposes.

ARTICLE V: DATA PROVISIONS

1. **Data Security.** The Provider agrees to abide by and maintain adequate 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 the applicable standards, as set forth in 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 with access to Student Data shall have signed confidentiality agreements regarding said Student Data. All employees with access to Student Records shall be subject to criminal background checks in compliance with state and local ordinances.
- b. **Destruction of Data.** Provider shall destroy or delete all Student Data obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained, or transfer said data to LEA or LEA’s designee, according to the procedure identified in Article IV, section 5, above. Nothing in the Service Agreement authorizes Provider to maintain Student Data beyond the time period reasonably needed to complete the disposition.
- c. **Security Protocols.** Both parties agree to maintain security protocols that meet industry standards in the transfer or transmission of any data, 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 digital 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 LEA.
- 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 LEA with contact information of an employee who LEA may contact if there are any security concerns or questions.
- e. **Security Technology.** When the service is accessed using a supported web browser, Provider shall employ industry standard measures 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 updated according to industry standards.
- f. **Security Coordinator.** If different from the designated representative identified in

Article VII, section 5, 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.
- h. Periodic Risk Assessment.** Provider further acknowledges and agrees to conduct digital and physical periodic (no less than semi-annual) risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner.

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) hours. Provider shall follow the following process:

- 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 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 because 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 LEA'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 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 LEA, upon request, with a copy of said written incident response plan.

- f. Provider is prohibited from directly contacting parent, legal guardian or eligible pupil unless expressly requested by LEA. If LEA requests Provider's assistance providing notice of unauthorized access, and such assistance is not unduly burdensome to Provider, Provider shall notify the affected parent, legal guardian or eligible pupil of the unauthorized access, which shall include the information listed in subsections (b) and (c), above. If requested by LEA, Provider shall reimburse LEA for costs incurred to notify parents/families of a breach not originating from LEA's use of the Service.

- g. 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 VI- GENERAL OFFER OF PRIVACY 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 DPA to any other LEA 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.

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. LEA shall have the right to terminate the DPA and Service Agreement in the event of a material breach of the terms of this DPA.

3. **Effect of Termination Survival**. If the Service Agreement is terminated, the Provider

shall destroy all of LEA's data pursuant to Article V, section 1(b), and Article II, section 3, above.

4. **Priority of Agreements.** This DPA shall govern the treatment of student data in order to comply with privacy protections, including those found in FERPA and all applicable privacy statutes identified in this DPA. In the event there is conflict between the DPA and the Service Agreement, the DPA shall apply and take precedence. Except as described in this paragraph herein, 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, 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:

a. Designated Representatives

The designated representative for the LEA for this Agreement is:

Name: Corey Jeffers

Title: Director of Technology

Contact Information:

200 N Farm Road, Oconto Falls, WI 54154

920-848-4450

corey.jeffers@of-ps.org

The designated representative for the Provider for this Agreement is:

Name: Jill Johnson, EdD

Title: President

Contact Information:

PO Box 805063, Lincoln, NE 68501

402-613-8216

jill@classintercom.com

b. **Notification of Acceptance of General Offer of Privacy Terms.** Upon execution of Exhibit "E", General Offer of Privacy Terms, Subscribing LEA shall provide notice of such acceptance in writing and given by personal delivery, or e-mail transmission (if contact information is provided for the specific mode of delivery), or first-class mail, postage prepaid, to the designated representative below.

The designated representative for notice of acceptance of the General Offer of Privacy Terms is:

Name: Corey Jeffers

Title: Director of Technology

Contact Information:

920-848-4450

corey.jeffers@of-ps.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 WISCONSIN, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS FOR THE COUNTY IN WHICH THIS AGREEMENT IS FORMED 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. Provider agrees that any purchaser of the Provider shall also be bound to the Agreement.

10. **Waiver.** No delay or omission of the LEA to exercise any right hereunder shall be construed as a waiver of any such right and the LEA reserves the right to exercise any such right from time to time, as often as may be deemed expedient.

11. **Successors Bound.** This DPA is and shall be binding upon the respective successors in interest to Provider in the event of a merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of such business.

[Signature Page Follows]

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

Provider:

BY:  Date: 2/14/2022

Printed Name: Jill Johnson Title/Position: President

Local Education Agency:

BY:  Date: February 14, 2022

Printed Name: Corey Jeffers Title/Position: Director of Technology

Note: Electronic signature not permitted.

EXHIBIT “A”

DESCRIPTION OF SERVICES

Class Intercom: Agreement and Terms of Service

Last Updated: November 6, 2019

Welcome to ClassIntercom.com. Class Intercom, LLC provides a software platform for schools, school districts and other organizations to create, manage and measure its social media activities on its own Twitter, Instagram, and Facebook accounts (the “Services”). The following are the terms and conditions for use of the Services by the person or persons accessing the software platform (the “Customer”). Please read these Terms of Service (“Terms” or “Agreement”) carefully before using this website operated by Class Intercom, LLC (“us”, “We”, “Class Intercom”, “our”).

Your access to and use of the website and Services under this limited license is conditioned on Your acceptance of and compliance with these Terms. These Terms apply to all visitors, users and others who access this site or use the products or services offered by Class Intercom.

BY ACCESSING AND USING THE SERVICES IN ANY MANNER, YOU ARE “ACCEPTING” AND AGREEING TO BE BOUND BY THESE TERMS OF SERVICE TO THE EXCLUSION OF ALL OTHER TERMS. IF YOU DO NOT UNCONDITIONALLY ACCEPT THESE TERMS IN THEIR ENTIRETY, YOU SHALL NOT (AND SHALL HAVE NO RIGHT TO) ACCESS OR USE THE SERVICES. THESE TERMS SHOULD BE READ IN CONJUNCTION WITH THE PRIVACY POLICY AND ANY USE OR OTHER AGREEMENT(S) FOR THE SERVICES OR PRODUCTS OFFERED.

Wherever used in these Terms of Service, “You”, “Your”, “Customer”, or similar terms means the person or legal entity accessing or using the Services. If You are accessing, using, and/or ordering and making charges for the Services on behalf of a school or organization (such as Your employer) or other legal entity, You will be binding such entity and You represent and warrant that You have the authority to bind that company or other legal entity to these Terms of Service.

We reserve the right, at any time, to update and change any or all of these Terms of Service, in our sole discretion, including, but not limited to, the scope of services and fees and charges associated with the use of the Services. If We do

so, We will post the modified Terms of Service on this site, though We will notify You of any changes that, in our sole discretion, materially impact these Terms of Service. Continued use of the Services after any changes have been made shall constitute Your consent to such changes. You are responsible for regularly reviewing the most current version of these Terms of Service, which are currently available at: classintercom.com/terms. When We change these Terms of Service, We will modify the “Last Updated” date above.

REGISTRATION. To use the Services, You will need to register and obtain an account and access. When You register, the information You provide to Class Intercom during the registration process will help Class Intercom in offering content, customer service, and other services and are subject to the terms of the [Privacy Policy](#). You are solely responsible for maintaining the confidentiality of Your account, UserName, and password (collectively, “Your” Account, aka “My Account”) and for all activities associated with or occurring under Your Account. You represent and warrant that Your Account information will be accurate at all times. To the extent permissible under applicable law, We cannot and will not be responsible for any loss or damage arising from Your failure to comply with the foregoing requirements or as a result of use of Your Account, either with or without Your knowledge, prior to Your notifying Class Intercom of unauthorized access to Your Account.

You may not transfer Your Account to any other person and You may not use anyone else’s Account at any time without the permission of the Account holder. In cases where You have authorized or registered another individual, including a minor, to use Your Account, You are fully responsible for (i) the online conduct of such Student and other users; (ii) controlling that Student’s access to and use of the Services; and (iii) the consequences of any misuse.

PAYMENT. Customer payment is due following registration and upon order completion, including the agreement with these Terms. Payment will be processed by Check or Check card. Payment is necessary as completion of enrollment to access and utilize Services. We use Quickbooks to process credit card payments. For paid Services and/or Subscriptions purchased online, You must provide Class Intercom with a valid credit card to pay for such services.

The Services will be purchased as an annual subscription. You agree that Class Intercom has permission to retain and/or share with financial institutions and payment processing firms (including any institutions or firms Class Intercom retains in the future) Your submitted payment information in order to process Your purchase and renewal. Depending on where You transact with us, the type

of payment method used and where Your payment method was issued, Your transaction with us may be subject to foreign exchange fees or differences in prices, including because of exchange rates. Class Intercom does not support all payment methods, currencies, or locations for payment. If the payment method You use with us, such as a credit card, reaches its expiration date and You do not edit your payment method information or cancel Your account, You remain responsible for any uncollected amounts. All applicable taxes are calculated based on the billing information You provide us at the time of purchase.

1. Free Trial Period. If You sign up for a free trial period for a Service that is subject to charges (the "Free Trial"), We may require You to provide us with a valid credit card or other valid payment methods. We may start charging You automatically on the first day after the Free Trial is over unless You cancel or downgrade to a charge-free Service and uninstall any Apps or other items, as required for cancellation, before the end of the Free Trial period.

2. Subscription Services; Auto-renewal and Cancellation. You are purchasing Online Services on an annual subscription basis which will automatically renew at the end of the annual term. Subscriptions are billed in advance on a yearly basis and are non-refundable for the subscription period they are purchased for.

3. You agree that Class Intercom may process Your credit card or other valid payment terms on each annual or other renewal terms (based on the applicable billing cycle), on the calendar day corresponding to the first day You subscribed to the Services.

4. Taxes and Withholdings. You are responsible for paying all taxes associated with Your purchase and use of Services.

TERM AND TERMINATION. The term of this agreement is one year. This agreement and the annual Class Intercom subscription begins when You sign up and make payment. Your use of Class Intercom includes Your agreement to license terms and conditions and ends when You terminate the subscription. You must provide notice of termination at least thirty (30) days prior to the end of the annual term.

Class Intercom reserves the right to terminate, suspend, modify, or delete, at its sole discretion, any (a) Services or Content; and (b) Your access to Services or Your Account, as follows: 1) If You breach or violate any of these Terms or any of Class Intercom's applicable policies, as posted on Class Intercom Services from time to time, Class Intercom may take action immediately without prior notice to You. However, Class Intercom will attempt to provide you notice of any

breach or violation and provide a reasonable opportunity (as determined by Class Intercom) to cure. If Class Intercom takes action pursuant to this section, Class Intercom shall not have any liability to You for any use of Class Intercom Services associated with Your Account. For avoidance of any doubt, You understand and agree that You will not be compensated nor be eligible for any refund under any circumstances for any such access lost to Class Intercom Services; 2) Class Intercom may also take action to terminate Your Account and any access to Services for any reason or no reason, in which case Class Intercom will provide prior notice to You.

FAIR USE POLICY. Class Intercom may suspend Your access to the Services for abusive practices that degrade the performance of the Services for You and/or other customers of Class Intercom.

NON-EXCLUSIVITY. You acknowledge that the rights granted to You under this Agreement are non-exclusive and that nothing in this Agreement will be interpreted or construed to prohibit or in any way restrict Class Intercom's right to license, sell, or otherwise make available the Services to any third party or perform any services for any third party.

INDEMNIFICATION. You agree to indemnify, defend, and hold harmless Class Intercom from any and all claims, liabilities, expenses, and damages, including without limitation, interest, penalties, court costs, attorney's fees and expenses made or pursued by any third party related to, resulting from, or arising out of: (i) the content You or any of Your users post on Your social media accounts through use of the Class Intercom platform; (ii) Your use or attempted use of the Services in violation of these Terms; (iii) Your violation of any law or rights of any third party; or (iv) the breach by You of any of the terms and conditions of the Agreement. Your obligations under this paragraph shall survive the termination of the Agreement.

NOTICE. By using these Services or communicating with Class Intercom, You agree that Class Intercom may communicate with You electronically regarding security, privacy, and administrative issues relating to Your use of the Services or these Terms. If Class Intercom learns of a security system's breach, Class Intercom may attempt to notify You electronically by posting a notice through the Services or sending an email to You. You may have a legal right to receive this notice in writing. To withdraw your consent from receiving electronic notice, please write to Class Intercom at support@classintercom.com. Notice will be deemed given twenty-four hours after email is sent unless the sending party is notified that the email address is invalid. Alternatively, Class Intercom

may give You legal notice by mail to a postal address, if provided by You and postal notice is requested, through Your use of the Services. In such case, notice will be deemed given three days after the date of mailing.

INTELLECTUAL PROPERTY RIGHTS. As between You and Class Intercom, Class Intercom retains all right, title, and interest in and to the Services, including its trademarks and other products and services. Nothing herein shall be construed to restrict, impair, encumber, alter, deprive, or adversely affect the Services or any of Class Intercom's rights or interests therein or any other Class Intercom intellectual property, brands, information, content, processes, methodologies, products, goods, services, materials, or rights, tangible or intangible. All rights, title, and interest in and to the Services not expressly granted in this Agreement are reserved by Class Intercom. You may from time to time provide suggestions, comments or other feedback to Class Intercom with respect to the Services ("Feedback"). Feedback, even if designated as confidential by You, shall not create any confidentiality obligation for Class Intercom notwithstanding anything else. You shall, and hereby do, grant to Class Intercom a non-exclusive, worldwide, perpetual, irrevocable, transferable, sub-licensable, royalty-free, fully paid-up license to use and exploit the Feedback for any purpose.

DISCLAIMERS. THE SERVICES AND ALL INCLUDED CONTENT ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED. CLASS INTERCOM SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OR DEALING OR USAGE OF TRADE. CLASS INTERCOM FURTHER DISCLAIMS ANY AND ALL LIABILITY RELATED TO YOUR ACCESS OR USE OF THE SERVICES OR ANY RELATED CONTENT. YOU ACKNOWLEDGE AND AGREE THAT ANY ACCESS TO OR USE OF THE SERVICES OR SUCH CONTENT IS AT YOUR OWN RISK.

LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, CLASS INTERCOM SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, OR ANY LOSS OF PROFITS OR REVENUES, WHETHER INCURRED DIRECTLY OR INDIRECTLY, OR ANY LOSS OF DATA, USE, GOODWILL, OR OTHER INTANGIBLE LOSSES, RESULTING FROM (A) YOUR ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SERVICES; (B) ANY CONDUCT OR

CONTENT OF ANY PARTY OTHER THAN CLASS INTERCOM, INCLUDING WITHOUT LIMITATION, ANY DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT; OR (C) UNAUTHORIZED ACCESS, USE, OR ALTERATION OF YOUR CONTENT OR INFORMATION. IN NO EVENT SHALL CLASS INTERCOM'S AGGREGATE LIABILITY FOR ALL CLAIMS RELATED TO THE SERVICES EXCEED TWENTY U.S. DOLLARS (\$20) OR THE TOTAL AMOUNT OF FEES RECEIVED BY CLASS INTERCOM FROM YOU FOR THE USE OF PAID SERVICES DURING THE PAST SIX MONTHS, WHICHEVER IS GREATER. YOU ACKNOWLEDGE AND AGREE THAT THE DISCLAIMERS AND THE LIMITATIONS OF LIABILITY SET FORTH IN THIS TERMS OF SERVICE REFLECT A REASONABLE AND FAIR ALLOCATION OF RISK BETWEEN YOU AND CLASS INTERCOM, AND THAT THESE LIMITATIONS ARE AN ESSENTIAL BASIS TO CLASS INTERCOM'S ABILITY TO MAKE THE SERVICES AVAILABLE TO YOU ON AN ECONOMICALLY FEASIBLE BASIS. YOU AGREE THAT ANY CAUSE OF ACTION RELATED TO THE SERVICES MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

CHILDREN. The Services are not available for contract by children under the age of 13. IF YOU ARE UNDER 13 YEARS OF AGE, YOU MUST NOT USE OR ACCESS THE SERVICES OR ATTEMPT TO SET UP AN ACCOUNT AT ANY TIME OR IN ANY MANNER. By entering into an agreement for use of the Services, You affirm that You are at least 18 years of age. Class Intercom does not seek through the Services to gather personal information from or about children under the age of 13. Your school or organization may provide permission to those under the age of 13 to use the platform through Your account.

NATURE OF RELATIONSHIP. No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect.

FORCE MAJEURE. Except for payment obligations, neither party shall be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond such party's reasonable control, including the elements; fire; flood; severe weather; earthquake; vandalism; accidents; sabotage; power failure; denial of service attacks or similar attacks; Internet failure; acts of God and the public enemy; acts of war; acts of terrorism; riots; civil or public disturbances; strikes, lockouts, or labour disruptions; and any laws, orders, rules,

regulations, acts, or restraints of any government or governmental body or authority, civil or military, including the orders and judgments of courts.

JURISDICTION & GOVERNING LAW; RESOLUTION OF CLAIMS AND DISPUTES. This website is owned and operated from offices located in Lincoln, Nebraska. Regardless of the place of execution, this Agreement shall be deemed to be an agreement made in Lincoln, NE, fully performed in Lincoln, NE, and the laws of the State of Nebraska shall govern this agreement without regard to the principles of conflicts of laws. Customer expressly waives any presumption or rule, if any, which requires this Agreement to be construed against Class Intercom. Since our goal is to seek to resolve any disagreements in a manner which preserve a relationship with You, any claims or disputes arising from or related to this Agreement shall be settled by mediation and, if necessary, legally binding arbitration in Lincoln, NE in accordance with the Rules of Procedure for Christian Conciliation of the Institute for Christian Conciliation (a division of Peacemaker Ministries) (available here: <http://peacemaker.net/rules-of-procedure/>). Judgment upon an arbitration decision may be entered in any court otherwise having jurisdiction. The parties understand that these methods shall be the sole remedy for any controversy or claim arising out of this Agreement and expressly waive their right to file a lawsuit in any civil court against one another for such disputes, except to enforce the mandatory arbitration provision of this Agreement or to enforce an arbitration decision.

GENERAL TERMS. If any portion of this Agreement shall be held to be illegal, invalid, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. In lieu of each such illegal, invalid, or unenforceable provision, there shall be added automatically as part of this Agreement a provision as similar to such former provision as shall be legal, valid, and enforceable, if possible, and such provision shall be applied. The provisions of this Agreement shall apply to, bind and inure to the benefit of Class Intercom and Customer and their respective successors, legal representatives, or assigns.

NOTICE FOR CALIFORNIA USERS. Under California Civil Code Section 1789.3, California websites users are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be

contacted in writing at 400 R Street, Suite 1080, Sacramento, California, 95814, or by telephone at (916) 445-1254 or (800) 952-5210.

STATUTE OF LIMITATIONS. Any claim or cause of action arising out of or related to use of the Services, the Terms, or any services or information available through Third Party Platforms, must be filed within one (1) year after such claim or cause of action arose regardless of any statutes or law to the contrary. In the event any such claim or cause of action is not filed within such one (1) year period, such claim or cause of action is forever barred.

OUR ADDRESS:

Class Intercom Customer Service

Class Intercom, LLC

PO Box 80563

Lincoln, NE 68501

support@classintercom.com

EXHIBIT “B”

SCHEDULE OF DATA

Category of Data	Elements	Check if used by your system	Category of Data	Elements	Check if used by your system
				behavioral data	
Application Technology Meta Data	IP Addresses of users, Use of cookies etc.		Demographics	Date of Birth	
	Other application technology meta data-Please specify:			Place of Birth	
				Gender	
				Ethnicity or race	
				Language information (native, preferred or primary language spoken by student)	
Application Use Statistics	Meta data on user interaction with application			Other demographic information-Please specify:	
Assessment	Standardized test scores		Enrollment	Student school enrollment	
	Observation data			Student grade level	
	Other assessment data-Please specify:			Homeroom	
				Guidance counselor	
Attendance	Student school (daily) attendance data			Specific curriculum programs	
	Student class attendance data			Year of graduation	
				Other enrollment information-Please specify:	
Communications	Online communications that are captured (emails, blog entries)				
Conduct	Conduct or		Parent/Guardian Contact	Address	
				Email	

Category of Data	Elements	Check if used by your system	Category of Data	Elements	Check if used by your system
Information	Phone			Phone	
Parent/Guardian ID	Parent ID number (created to link parents to students)		Student Identifiers	Local (School district) ID number	
				State ID number	
Parent/Guardian Name	First and/or Last			Vendor/App assigned student ID number	
Schedule	Student scheduled courses			Student app username	
	Teacher names			Student app passwords	
Special Indicator	English language learner information		Student Name	First and/or Last	x
	Low income status				
	Medical alerts /health data		Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)	
	Student disability information				
	Specialized education services (IEP or 504)				
	Living situations (homeless/foster care)		Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	
	Other indicator information-Please specify:				
			Student Survey Responses	Student responses to surveys or questionnaires	
Student Contact Information	Address				
	Email	x			

Category of Data	Elements	Check if used by your system
Student work	Student generated content; writing, pictures etc.	x
	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	

designation is no longer applicable.

OTHER: Use this box, if more space needed

No Student Data Collected at this time _____.

*Provider shall immediately notify LEA if this

EXHIBIT “C”

DEFINITIONS

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.

Educational Records: Educational Records are official records, files and data directly related to a student and maintained by the school or local education agency, 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. For purposes of this DPA, Educational Records are referred to as Student Data.

NIST: Draft National Institute of Standards and Technology (“NIST”) Special Publication 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. For the purpose of the Service Agreement, the term “Operator” is replaced by the term “Provider.” This term shall encompass the term “Third Party,” as it is found in applicable state statutes.

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 LEA or its users, students, or students’ parents/guardians. PII includes Indirect Identifiers, which is any information that, either alone or in aggregate, would allow a reasonable person to be able to identify a student to a reasonable certainty. For purposes of this DPA, Personally Identifiable Information shall include the categories of information listed in the definition of Student Data.

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 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 all of the following: (1) Any information that directly relates to a pupil that is maintained by LEA;(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 LEA employee; and any information that meets the definition of a “pupil record” under Wis. Stat. § 118.125(1)(d). For the purposes of this Agreement, Pupil Records shall be the same as Educational Records, Student Personal Information and Covered Information, all of which are deemed Student Data for the purposes of this Agreement.

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

School District Official: For the purposes of this Agreement and pursuant to 34 CFR 99.31 (B) and Wis. Stat. § 118.125(2)(d), a School District 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) and Wis. Stat. § 118.125(2) governing the use and re-disclosure of personally identifiable information from student records.

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, 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 Wisconsin 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. 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.

Student Personal Information: “Student Personal Information” means information collected through a school service that personally identifies an individual student or other information collected and maintained about an individual student that is linked to information that identifies an individual student, as identified by Washington Compact Provision 28A.604.010. For purposes of this DPA, Student Personal Information is referred to as Student Data.

Subscribing LEA: An LEA 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 LEA 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: Targeted advertising 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.

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.”

EXHIBIT "D"

DIRECTIVE FOR DISPOSITION OF DATA

[Name or District or LEA] directs [Name of Provider] to dispose of data obtained by Provider pursuant to the terms of the Service Agreement between LEA and Provider. The terms of the Disposition are set forth below:

<u>Extent of Disposition</u> Disposition shall be:	<input type="checkbox"/> Partial. The categories of data to be disposed of are as follows: <input type="checkbox"/> Complete. Disposition extends to all categories of data.
<u>Nature of Disposition</u> Disposition shall be by:	<input type="checkbox"/> Destruction or deletion of data. <input type="checkbox"/> Transfer of data. The data shall be transferred as set forth in an attachment to this Directive. Following confirmation from LEA that data was successfully transferred, Provider shall destroy or delete all applicable data.
<u>Timing of Disposition</u> Data shall be disposed of by the following date:	<input type="checkbox"/> As soon as commercially practicable <input type="checkbox"/> By (Insert Date) _____ [Insert or attach special instructions]

Authorized Representative of LEA

Date

Verification of Disposition of Data

Date

by Authorized Representative of Provider

EXHIBIT "E"

**GENERAL OFFER OF PRIVACY TERMS
Oconto Falls Public Schools**

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and [Name of LEA] and which is dated to any other LEA ("Subscribing LEA") 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 LEA may also agree to change the data provided by LEA to the Provider in Exhibit "B" to suit the unique needs of the 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 subject listed in the Originating Service Agreement; or three (3) years after the date of Provider's signature to this Form.

Provider:

BY:  _____
Printed Name: Jill Johnson, EdD

Date: 2-14-2022

Title/Position: President

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.

Subscribing LEA:

BY: _____

Date: _____

Printed Name: _____

Title/Position: _____

TO ACCEPT THE GENERAL OFFER, THE SUBSCRIBING LEA MUST DELIVER THIS SIGNED EXHIBIT TO THE PERSON AND EMAIL ADDRESS LISTED BELOW

Name: _____

Title: _____

Email Address: _____

EXHIBIT “F”

DATA SECURITY REQUIREMENTS

[INSERT ADDITIONAL DATA SECURITY REQUIREMENTS HERE]