

OPERATOR ADDENDUM

THIS ADDENDUM (the “Addendum”) by and between **MobyMax Education, LLC.** (the “Company”) and the Board of Control of School Association for Special Education in DuPage County (“SASED”), an Illinois special education cooperative (the “Customer” or the “District”), is incorporated in and effective simultaneously with the attached Terms of Use Agreement (the “Agreement”) and modifies the Agreement (and all supplement terms and conditions, order forms, and policies, practices, or procedures applicable to or employed by the Company under the Agreement) as follows:

1. **Customer Data.** The Company shall cause each officer, director, employee, and other representative (collectively, the “Authorized Representatives”) who shall have access to any “Customer Data,” which is defined as all student Personally Identifiable Information (“PII”) and other non-public information, including student data, metadata, and user content, of the District students (hereinafter “Customer Data”), whether provided by a student, a student’s parent, school personnel, or gathered by the Company during the term of the Agreement to maintain in strict confidence and trust all Customer Data, including the following:
 - a. “Student data” includes personally identifiable information or other material or information that is linked to such personally identifiable information that is created by or provided by a student or the student’s parent in the course of the student’s use of the Company’s services for school purposes. The types of student data that may be collected as part of using the Company’s services include student work, student names, student e-mails, grade and age.
 - b. With respect to any Customer Data that could be considered “education records” as defined under the Family Educational Rights and Privacy Act (“FERPA”) and/or “school student records” as defined under the Illinois School Student Records Act (“ISSRA”), the Company acknowledges that for the purposes of this Agreement it will be designated as a “school official” with “legitimate educational interests” in the education records, as those terms have been defined under FERPA and ISSRA and their implementing regulations and is performing an institutional service or function for which the Customer would otherwise use employees, under the direct control of the school, with respect to the use and maintenance of Customer Data. The Company agrees to abide by the FERPA and ISSRA limitations and requirements imposed on school officials. The Company will collect and use Customer Data only for the purpose of fulfilling its duties under

the Agreement for the Customer and the Customer's end users' benefits, and will not share Customer Data with or disclose it to any third party except as provided for in this Addendum, required by law, or authorized in writing by the Customer. The Company will not use Customer Data (including metadata) for advertising or marketing purposes unless such use is specifically authorized by this Addendum or otherwise authorized in writing by the Customer.

- c. With respect to Customer Data that could be considered "education records" Customer shall have the right to access such information for educational purposes and Company will not implement controls to restrict Customer's access to its education records.
- d. With respect to the Company's collection, use or disclosure of personal information from students, as governed by applicable laws, the Company agrees that the Company's use of the personal information and any other Customer Data will be solely for the benefit of the Customer's students and for the school system, and that the operator will not collect personal information from students for any purpose other than the Customer's purpose, including any other commercial purpose, and will not amass a profile about a student, except in furtherance of Customer's purposes.
- e. With respect to the Company's collection, disclosure, or use of personal information as governed by this Addendum and all applicable laws referenced herein, the Company agrees that such collection, disclosure or use of any Customer Data shall be exclusively in furtherance of Customer's school purposes, unless otherwise permitted by law or requested by a student or the student's parent or unless done to allow or improve operability and functionality of the Company's service. If the Company discloses Customer Data to a third party, the following conditions must be met: 1) the Customer must have a contract with the third party; 2) the disclosure must be in furtherance of providing the contracted service; 3) the third party must not further disclose Customer Data; and 4) the third-party must implement and maintain reasonable security procedures and practices that meet or exceed industry standards. The Company will provide the customer with a list of any third parties to whom the Company is currently disclosing Customer Data or has disclosed Customer Data. The Company will provide this list within 14 business days of January 1 and within 14 business days of July 1. Customer Data does not include information that has been de-identified such that the resulting data cannot reasonably be used to identify an individual

student.

- f. The identity of Authorized Company Representatives having access to Customer Data will be documented and access will be logged.
2. **Limited Warranty.** For the purposes of this Addendum, a “Defect” is defined as a failure of the Company’s Products to substantially conform to the then-current Company’s User Guides materials. For as long as the Agreement is in place, the Company warrants that the Company’s Products will not contain Defects. If the Services do not perform as warranted, the Company will use reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the Company’s then current support call process. Should the Company be unable to cure the Defect or provide a replacement product within five business days, the Customer shall be entitled to a refund of its fees paid for the Services, as depreciated on a straight-line basis over a 12 month period commencing on the date the Customer first has access to the Company’s Products through the date of termination.
3. **Compliance with Law.** Company shall comply with all applicable local, county, Illinois, and federal laws and regulations, including those regarding the provision of educational software, copyright, student records/educational records, and student confidentiality, including FERPA, ISSRA, COPPA, PPRA, the Illinois Student Online Personal Protection Act (“SOPPA”), and the Illinois Children’s Privacy Protection and Parental Empowerment Act (“ICPPEA”), to the extent applicable.
4. **Ownership.** All Customer Data will remain Customer's property and Customer shall retain full control over all such Data shared with or collected by the Company.
5. **Security.** Company agrees to employ reasonable security measures that meet or exceed industry standards and otherwise comply with all applicable federal and state laws and regulations regarding data security and privacy for provision of service, including testing its servers for viruses at reasonable intervals and maintaining backup copies of all content. Company agrees to store and process the Customer Data in a manner that is no less protective than those methods used to secure the Company’s own data. This includes appropriate administrative, physical, and technical safeguards to secure the data from unauthorized access, disclosure, use, and loss, and includes maintaining adequate backup copies of the data. Company shall maintain complete and accurate records of these security measures and produce such records to Customer for purposes of audit upon reasonable prior notice during normal

business hours. The Customer reserves the right at its sole discretion to perform audits of the Company's storage of Customer Data at the Customer's expense to ensure compliance with the terms of the Agreement and this Addendum. The Company shall reasonably cooperate in the performance of such audits.

6. **Security Breach.** In the event of a "Security Breach," which means an unauthorized disclosure, access, alteration, use, or acquisition of computerized data of Customer Data or circumstances that could have resulted in such unauthorized disclosure, access, alteration or use, or that compromises the security, confidentiality or integrity of Customer Data, the Company shall promptly, and in no event later than 30 calendar days after the determination that a Security Breach has institute the following:
- i. Provide the Customer with the name and contact information for an employee of the Company who shall serve as the Company's primary security contact and shall be available to assist customer twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a Security Breach;
 - ii. Notify the Customer of a Security Breach by immediately contacting **Melinda McGuffin** by telephone at **630-955-8112** and by e-mail with a read receipt at technology@sased.org and, if that person is different from the contact person identified in this paragraph, by contacting the Company's primary business contact within the District by telephone and email as soon as practicable, but no later than twenty-four (24) hours after the Company becomes aware of a Security Breach; and
 - iii. Promptly following the Company's notification to the Customer of a Security Breach, the parties shall coordinate with each other to investigate the Security Breach. The Company agrees to fully cooperate with the Customer in the handling of the matter, including, without limitation:
 - a. Assisting with any investigation;
 - b. Facilitating interviews with the Company's employees and other involved in the matter;
 - g. Making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, or as otherwise reasonably required by the Board; and

- d. Assisting the District with any notifications the District deems necessary related to the security breach. The Company shall not, unless required by law, provide any notices to any individual or entity without prior written permission from the District.

The Company shall reimburse and indemnify the Customer for any costs imposed on the Customer or reasonably undertaken by the Customer at its discretion associated with a Security Breach, including reimbursement of fees paid by the Customer related to providing credit monitoring to affected individuals and payment of legal fees, audit costs, fines, and other fees undertaken by the Customer as a result of the security breach.

7. **Return/Destruction of Customer Data.** Upon expiration of the term of the Agreement, upon the earlier termination of the Agreement for any reason, or upon the Customer's request, the Company covenants and agrees that it promptly shall deliver to the Customer and shall return to the Customer all Customer Data. If the Customer is not willing to receive Customer Data within a reasonable time (not to exceed 6 months) or if it is not feasible to return the Data to the Customer, then the Company shall destroy the data within 6 months. The non-disclosure obligations of the Company and its Authorized Representatives regarding the information contained in the Customer Data shall survive termination of the Agreement.
8. **Data Storage.** The Company shall not transmit to or store any Customer Data on a server or other data storage medium located outside the United States of America.
9. **Infringement.** The Company warrants that no third party has any claim to any trademark, patent, or proprietary interest in any services the Company provides to the Customer. The Company will defend, hold harmless, and indemnify the Customer from any claims brought by a third party against the Customer to the extent based on an allegation that the Company Products infringe any U.S. patent, copyright, trademark, trade secret or other proprietary right of a third party. If the Customer's use of the Company's products is restricted as the result of a claim of infringement, the Company shall do one of the following: (i) substitute other equally suitable product; (ii) modify the allegedly infringing Company product to avoid the infringement; (iii) procure for the Customer the right to continue to use the Company products free of the restrictions caused by the infringement; or (iv) take back such Company products and refund to the Customer the license fee previously paid for the Company products depreciated on a straight line basis over 12 months and terminate the Customer's license to use the

Company's product.

10. **Governing Law.** The Agreement and this Addendum shall be construed under the laws of Illinois and jurisdiction of the Circuit Court of DuPage County, Illinois or the federal district court for the Northern District of Illinois, Eastern Division, exclusive of its choice of laws provision.
11. **Access to Data by the Customer.** Any Customer Data in the possession or under the control of the Company shall be made available to the Customer upon request by the Customer. The Company shall be responsible to provide copies of or access to Customer Data in the possession or under the control of the Company to the Customer within a reasonable time frame and in all cases within time frames that will allow timely compliance by the Customer with any statutorily or court ordered deadline. This includes requests under the Illinois Freedom of Information Act ("FOIA"), requests for student records under FERPA or ISSRA, requests for records in discovery in state or federal court or administrative proceedings, or any other request.
12. **Taxes.** The Customer is a tax exempt organization. Federal excise tax does not apply to the Customer and State of Illinois Sales Tax does not apply. The amounts to be paid to the Company hereunder are inclusive of all other taxes that may be levied, including sales, use, nonresident, value-added, excise, and similar taxes levied or imposed upon the work. The Company shall be responsible for any taxes levied or imposed upon the income or business privileges of the Company.
13. **Customer Payments.** The Customer shall make payments to the Company in accordance with the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1. If the Customer is late in making a payment it shall make interest payments at the maximum amount permitted under the Illinois Local Government Prompt Payment Act, 50 ILCS 505/4.
14. **Indemnification and Insurance.** Company agrees to indemnify, defend and hold harmless Customer and its officers, directors, employees, agents, attorneys and assigns, against any third party claims, demands, actions, arbitrations, losses and liabilities resulting from damage caused by Company employees, contractors, or subcontractors in performing the obligations under the Agreement or this Addendum. Company shall maintain liability insurance evidencing that the Company has workers compensation insurance as required by law and general liability insurance with a minimum limit of \$2,000,000. All insurers shall be licensed by the State of Illinois and

rated A+-VII or better by A.M. Best or comparable rating service. The comprehensive general liability shall name the Customer, its Board, Board members, employees, agents, and successors as an additional insured with a waiver of subrogation in favor of the Customer. The Company shall provide the Customer with certificates of insurance and/or copies of policies reasonably acceptable to the Customer evidencing the existence of the coverage described above, including form and deductibles, during the duration of the Agreement. The failure to provide acceptable insurance or certificate of insurance shall be deemed a breach of the Agreement and the Customer may immediately terminate the Agreement. Such certificates of insurance shall indicate that should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered to the Customer in accordance with the policy provisions, but in no event less than thirty (30) days prior to cancellation of coverages.

- 15. No Indemnification or Limitation of Liability by Customer.** Any provision included in the Agreement that requires the Customer to indemnify the Company or any other party is deleted and shall not apply to the Customer. Any provision in the Agreement that limits the Company's liability is deleted.
- 16. Warranties.** The Company warrants that the product is fit for the purposes for which it is being provided to the Customer, that title to the product is free and clear, and that Customer's use of the product for its intended purposes does not infringe on the intellectual property rights of any third party. The Customer agrees to use the product only for its intended purpose. Any provision in the Agreement that imposes a warranty on the Customer is deleted.
- 17. Employee and Subcontractor Qualifications.** The Company shall ensure that its employees and subcontractors who have potential access to Customer Data have undergone appropriate background screening to the Customer's satisfaction and possess all needed qualifications to comply with the terms of this Addendum and the Agreement including all terms relating to Customer Data, student data privacy, and intellectual property protection, and shall be responsible for any failure of such individuals to comply with such obligations.
- 18. Renewal of Agreement and Addendum; Posting of Agreement and Addendum.** The parties may renew the Agreement and this Addendum in writing. Unless otherwise specifically agreed in writing, any renewal of the Agreement shall be deemed a renewal of this Addendum. Any provisions in the Agreement that provide for an automatic renewal of the Agreement are deleted. Customer shall post a copy of the Agreement and

this Addendum, as well as any renewals, on its website.

19. **Termination.** The Customer may immediately terminate the Agreement if the Customer makes the determination that the Company has breached a material term of this Addendum.
20. **Terms and Conditions.** This Addendum constitutes the Terms of Use between the Company and Customer and supersedes all other prior or present understandings, either verbal or in written, regarding the subject matter of the Agreement. Any changes to the Company's Terms of Use shall be ineffective and inapplicable with respect to the Customer unless Customer affirmatively consents in writing to be bound by such changes. In the event of a conflict between the terms and provisions of the Agreement and this Addendum, this Addendum shall be controlling.
21. **Privacy Policies.** Access by students or parents/guardians to the Company's programs or services governed by the Agreement or to any Customer Data stored by the Company shall not be conditioned upon agreement by the parents/guardians to waive any of the student data confidentiality restrictions or a lessening of any of the confidentiality or privacy requirements contained in this Addendum.
22. **Effective Date.** The Agreement shall be deemed dated and become effective on the date of the last signature of the parties' duly authorized representatives as set forth below.

MobyMax Education, LLC.

School Association for Special Education
in DuPage County ("SASED").

By: 
Its Duly Authorized Agent

By: 
Its Duly Authorized Agent

Printed Name: Glynn Willett

Printed Name: Melinda McGuffin

Title: CEO

Title: Executive Director

Address: 500 Westover Dr #12127
Sanford, NC 27330

Address: 2900 Ogden Avenue, Lisle IL
60532

Date: 10/16/2020

Date: 10/29/2020

Last updated on July 6, 2020

This Web Site (www.MobyMax.com) is operated by MobyMax, LLC (hereafter referred to as 'MobyMax'). By visiting our Web Site ('Web Site') and accessing the information, resources, services, products, and tools we provide, you understand and agree to accept and adhere to the following terms and conditions as stated in this policy (hereafter referred to as 'Terms of Use'). We reserve the right to change these Terms of Use from time to time without notice. You acknowledge and agree that it is your responsibility to review these Terms of Use periodically to familiarize yourself with any modifications. Your continued use of this site after such modifications will constitute acknowledgment and agreement of the modified terms and conditions.

Unless you have entered into your own school or district contract with MobyMax, you signify your acceptance of these Terms of Use by using this site. Your continued use of MobyMax following the posting of changes to these Terms of Use will be deemed your acceptance of those changes.

Responsible Use and Conduct

By visiting our Web Site and accessing the information, resources, services, products, and tools we provide for you, either directly or indirectly (hereafter referred to as 'Resources'), you agree to use these Resources only for the

purposes intended as permitted by (a) the terms of these Terms of Use, and (b) applicable laws, regulations, and generally accepted online practices or guidelines.

Wherein, you understand that:

- a. In order to access our Resources, you may be required to provide certain information about yourself (such as identification, contact details, etc.) as part of the registration process, or as part of your ability to use the Resources.
- b. You are responsible for maintaining the confidentiality of any login information associated with any account you use to access our Resources. Accordingly, you are responsible for all activities that occur under your account/s.
- c. Accessing (or attempting to access) any of our Resources by any means other than through the means we provide is strictly prohibited. You specifically agree not to access (or attempt to access) any of our Resources through any automated, unethical, or unconventional means.
- d. Engaging in any activity that disrupts or interferes with our Resources, including the servers and/or networks our Resources are located on or connected to, is strictly prohibited.
- e. Attempting to copy, duplicate, reproduce, sell, trade, or resell our Resources is strictly prohibited.

Open Communication Tools

We may provide various open communication tools on our Web Site, such as blog comments, blog posts, public chat, forums, message boards, newsgroups, product ratings and reviews, various social media

services, etc. You understand that generally we do not pre-screen or monitor the content posted by users of these various communication tools, which means that if you choose to use these tools to submit any type of content to our Web Site, then it is your personal responsibility to use these tools in a responsible and ethical manner. By posting information or otherwise using any open communication tools as mentioned, you agree that you will not upload, post, share, or otherwise distribute any content that:

- a. Is illegal, threatening, defamatory, abusive, harassing, degrading, intimidating, fraudulent, deceptive, invasive, racist, or contains any type of suggestive, inappropriate, or explicit language;
 - b. Infringes on any trademark, patent, trade secret, copyright, or other proprietary right of any party.
 - c. Contains any type of unauthorized or unsolicited advertising;
 - d. Impersonates any person or entity, including any www.MobyMax.com employees or representatives.
- We have the right at our sole discretion to remove any content that we feel in our judgment does not comply with these Terms of Use, along with any content that we feel is otherwise offensive, harmful, objectionable, inaccurate, or violates any 3rd party

copyrights or trademarks. We are not responsible for any delay or failure in removing such content. If you post content that we choose to remove, you hereby consent to such removal, and consent to waive any claim against us.

We reserve the right to terminate your access to the open communication tools at any time, without notice, for any reason whatsoever.

We do not assume any liability for any content posted by you or any other 3rd party users of our Web Site.

Material You Provide to MobyMax

Materials ('Material') include any submission by posting, uploading, inputting, or otherwise providing to MobyMax except information that is provided as part of the registration or rostering process. Material includes but is not limited to your recommendations, reviews, suggestions, problems, lessons, lesson plans, and rubrics that you create. You are granting MobyMax and its agents permission to use your Material in connection with MobyMax's operation of the Web Site and its other businesses, including without limitation, the right and perpetual, irrevocable, worldwide, royalty-free, exclusive license to copy, distribute, transmit, publicly display, reproduce, edit, translate and reformat your Material, and to publish your name in connection with your Material, all without the payment of compensation to you in respect of any such use of your Material. You warrant and represent that you own, or otherwise control, all of the rights to your Material.

Indemnity

You agree, if permitted by law, to indemnify and hold harmless MobyMax and its parent company and affiliates, and their directors, officers, managers,

employees, donors, agents, and licensors, from and against all losses, expenses, damages, and costs, including reasonable attorneys' fees, resulting from any violation of these Terms of Use, the failure to fulfill any obligations relating to your account incurred by you or any other person using your account, or arising out of your use of, or conduct on, our Web Site. We reserve the right to take over the exclusive defense of any claim for which we are entitled to indemnification under these Terms of Use. In such event, you shall provide us with such cooperation as is reasonably requested by us.

Limitation of Warranties

By using our Web Site, you understand and agree that all Resources we provide are "as is" and "as available". This means that we do not represent or warrant to you that:

- a) the use of our Resources will meet your needs or requirements,
- b) the use of our Resources will be uninterrupted, timely, secure or free from errors,
- c) the information obtained by using our Resources will be accurate or reliable, and
- d) any defects in the operation or functionality of any Resources we provide will be repaired or corrected.

Furthermore, you understand and agree that:

e) any content downloaded or otherwise obtained through the use of our Resources is done at your own discretion and risk, and that you are solely responsible for any damage to your computer or other devices for any loss of data that may result from the download of such content.

f) no information or advice, whether expressed, implied, oral or written, obtained by you from MobyMax or through any Resources we provide shall create any warranty, guarantee, or conditions of any kind, except for those expressly outlined in these Terms of Use.

Non-Commercial Use Limitation

You may not modify, copy, distribute, display, perform, reproduce, publish, license, create derivative works from, transfer, retransmit, or sell any content from the Web Site.

Family Licenses

Family licenses are for a single household. Students from multiple households cannot be registered in one Family account.

Number of Students Allowed for Teacher Licenses

The maximum number of students allowed for a teacher license is 200 students.

Number of Students and Teachers Allowed for Schoolwide Licenses

The number of students and teachers allowed for a schoolwide license is unlimited for a traditional brick-and-mortar school. All non- traditional schools,

including but not limited to after-school programs, online schools, virtual schools, and adult education programs, require a per-student license.

Limitation of Liability

In conjunction with the Limitation of Warranties as explained above, you expressly understand and agree that any claim against us shall be limited to the amount you paid, if any, for use of products and/or services. MobyMax will not be liable for any direct, indirect, incidental, consequential, or exemplary loss or damages which may be incurred by you as a result of using our Resources, or as a result of any changes, data loss or corruption, cancellation, loss of access, or downtime to the full extent that applicable limitation of liability laws apply.

Copyrights/Trademarks

All content and materials available on www.MobyMax.com, including but not limited to text, graphics, Web Site name, code, images and logos are the intellectual property of Learn Without Limits, LLC, and are protected by applicable copyright and trademark law. Any inappropriate use, including but not limited to the reproduction, distribution, display or transmission of any content on this site is strictly prohibited, unless specifically authorized by Learn Without Limits, LLC . All other product and company names should be considered

the property of their respective companies and organizations.

Termination of Use

You agree that we may, at our sole discretion, suspend or terminate your access to all or part of our Web Site and Resources with or without notice and for any reason, including, without limitation, breach of these Terms of Use. Any suspected illegal, fraudulent, or abusive activity may be grounds for terminating your relationship and may be referred to appropriate law enforcement authorities. Upon suspension or termination, your right to use the Resources we provide will immediately cease, and we reserve the right to remove or delete any information that you may have on file with us, including any account or login information.

Governing Law

This Web Site is controlled by MobyMax. It can be accessed by most countries around the world. By accessing our Web Site, you agree that the statutes and laws of the state of Delaware, without regard to the conflict of laws and the United Nations Convention on the International Sales of Goods, will apply to all matters relating to the use of this Web Site and the purchase of any products or services through this site.

Furthermore, any action to enforce these Terms of Use shall be brought in the federal or state courts you hereby agree to personal jurisdiction by such courts, and waive any jurisdictional, venue, or inconvenient forum objections to such courts.

LIABILITY DISCLAIMER

THE SERVICES, TOOLS, WEB SITE AND ANY CONTENT OR SOFTWARE CONTAINED THEREIN OR ACCESSIBLE THEREFROM, ARE PROVIDED "AS IS". EXCEPT TO THE

EXTENT REQUIRED BY APPLICABLE LAW, MOBYMAX MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND REGARDING: THE UP-TO-DATENESS, ACCURACY, TIMELINESS OR COMPLETENESS OF ANY INFORMATION CONTAINED WITHIN OR AVAILABLE THROUGH THE USE OF THE TOOLS OR WEB SITE, INCLUDING BUT NOT LIMITED TO THE RESULTS OBTAINED FROM THE USE OF THE SERVICES, TOOLS OR WEB SITE; AND ANY INFORMATION PROVIDED BY THIRD PARTIES AND ACCESSIBLE ON OR THROUGH THE USE OF THE SERVICES, TOOLS OR WEB SITE.

EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, MOBYMAX: DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES AND CONDITIONS, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES AS TO NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; AND DOES NOT WARRANT THAT THE SERVICES, TOOLS OR WEB SITE OR ANY CONTENT THEREIN WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED. THE USE OF THE SERVICES, TOOLS AND WEB SITE IS AT YOUR OWN RISK, AND YOU ASSUME FULL RESPONSIBILITY AND RISK OF LOSS YOU MAY SUFFER AS A RESULT OF USING, OR ACCESSING THE SERVICES, TOOLS OR WEB SITE, OR DOWNLOADING ANY CONTENT THEREON, EXCEPT TO THE EXTENT THAT LIABILITY UNDER ANY APPLICABLE

LAW OR REGULATION CANNOT BE EXCLUDED.

MOBYMAX IS NOT LIABLE FOR LOSS OR DAMAGE OF ANY KIND WHATSOEVER ARISING AS A RESULT OF INFORMATION PUBLISHED ON OR FURNISHED THROUGH THE SERVICES, TOOLS OR WEB SITE, OR ANY ERRORS OR OMISSIONS OF THE TOOLS OR WEB SITE; MOBYMAX SHALL HAVE NO LIABILITY ARISING FROM DECISIONS OR PURCHASES OF THIRD PARTY GOODS OR SERVICES BASED ON INFORMATION PUBLISHED ON OR FURNISHED THROUGH THE SERVICES, TOOLS OR WEB SITE; AND UNDER NO CIRCUMSTANCES SHALL MOBYMAX OR ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, VENDORS, SUPPLIERS OR DISTRIBUTORS BE LIABLE UNDER THIS AGREEMENT TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGES OR ANY OTHER SIMILAR DAMAGES UNDER ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY), THAT ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THE USE OF, OR THE INABILITY TO USE, THE SERVICES, TOOLS, WEB SITE, OR ANY CONTENT CONTAINED THEREON, EVEN IF MOBYMAX HAS BEEN INFORMED OF THE POSSIBILITY THEREOF. IF YOU ARE DISSATISFIED WITH ANY SERVICES, TOOLS, OR ANY PORTION OF THE WEB SITE, OR WITH ANY OF THESE TERMS OF USE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USE OF THE SERVICES, TOOLS AND WEB SITE.

Last updated on February 21, 2018

Student privacy is just as important to us as it is to you.

Our security starts with the data you enter into our program. Only the most basic personal information (name and grade level) is entered into MobyMax.

We never share your information with third parties, with only one exception: with your explicit permission, we may allow educational researchers to access aggregate class information.

You can reach out to us. We're here to answer any additional questions you might have. Please don't hesitate to call us at 1-888-793-8331 (between 8 am and 5 pm ET) Monday-Friday, or email us at support@mobymax.com anytime.

What we do

Comply with COPPA

and FERPA.

Allow teachers to replace

student first and last

names with nicknames or

aliases.

Allow parents/guardians

to view a student's

progress, time spent, and lesson data.

Constantly monitor the

security and integrity of

data.

Allow student accounts to

be soft-deleted or

permanently deleted.

This Privacy Policy governs the manner in which MobyMax collects, uses, maintains and discloses personally identifiable information in records ("Student Records") collected from users ("User") of the www.MobyMax.com website ("Site"). This Privacy Policy applies to the Site and all the services offered by MobyMax on this Site.

COPPA and FERPA

We are committed to working with our Users to comply with laws, rules, and regulations governing the use and protection of Student Records, including the Children Online Privacy Protection (COPPA) and the Family Educational Rights and Privacy Act (FERPA) and their implementing regulations, applicable state laws, and statutes governing Student Records we receive from Users. As such, MobyMax is committed to protecting the security, confidentiality, and integrity of Student Records that we receive from Users, as well as to protecting against unauthorized access or anticipated threats.

Personal identification information

We may collect personal identification information from Users in a variety of ways, including, but not limited to,

when Users visit our Site, subscribe to email alerts, and in connection with other activities, services, features or resources we make available on our Site. Users may be asked for, as appropriate, name, email address, mailing address, and phone number. Teachers or administrators choose which identifying information to include as the students' first name, last name, username, password, and ID. We never collect sensitive information such as student addresses, social security numbers, or dates of birth. We permit teachers

or administrators to replace student first and last names with nicknames or aliases. Users may, however, visit our Site anonymously. We will collect personal identification information from Users only if they voluntarily submit such information to us. Users can always refuse to supply personal identification information, except that it may prevent them from engaging in certain Site-related activities. Users can correct any erroneous personal information by emailing support@mobyMax.com or calling (888)793-8331.

Non-personal identification information

We may collect non-personal identification information about Users whenever they interact with our Site. Non-personal identification information may include the browser name, the type of computer and technical information about Users' means of connection to our Site, such as the operating system and the Internet service providers utilized and other similar information.

Web browser cookies

Our Site may use "cookies" to enhance Users' experience. A User's web browser places cookies on their hard drive for record-keeping purposes and sometimes to track information about them. Users may choose to set their web browser to refuse cookies, or to alert them when cookies are being sent, but this may result in some parts of the Site not functioning properly.

How we use collected information

MobyMax may collect and use Users' personal information for improving the User's experience or sending periodic emails. Students shall not receive email alerts containing any advertising or product information. We may use information in the aggregate to understand how our Users as a group use the services and resources provided on our Site and so that we may improve our Site. If the User decides to opt-in to our email alerts, they will receive emails that may include company news, updates, related product or service information, etc. If at any time the User would like to unsubscribe from receiving future emails, we include detailed unsubscribe instructions at the bottom of each email.

Property and control of student data

All student records and data continue to be the property of and under the control of the local educational agency. Students are able to access, print, and otherwise retain any student-generated content by accessing it through various channels in their student accounts. If teachers provide parents or guardians with login instructions, they are able to access basic student MobyMax data like progress, lessons completed, and time spent.

What we don't do

Collect sensitive student

information such as
address, social security
number, or date of birth.

Sell or rent user
information.

Display commercial
advertising.

How we protect your information

We adopt appropriate data collection, storage and processing practices, and security measures to protect against unauthorized access, alteration, disclosure, or destruction of your personal information, username, password, transaction information, and data stored on our Site.

Sharing your personal information

We do not sell, trade, or rent Users' personal identification information to others. We will not allow unrelated third parties to use your personal information for any reason without your consent. We may share generic aggregated demographic information not linked to any personal identification information regarding visitors, and users with our business partners for the purposes outlined above. We may disclose and share personal information with (1) our group companies or any entity which acquires any part of our business, (2) with our service providers (including, for example, suppliers who develop or host our sites), (3) with single sign-on providers that you use to access our

software, (4) roster services that you use to update your student and teacher rosters, and (5) if required or permitted by law with other third parties with your consent.

Procedure for unauthorized records disclosure

In the event of a breach or unauthorized disclosure of student records that would be subject to disclosure under applicable federal or state law has occurred, MobyMax will take prompt and appropriate steps to mitigate further breach or release of student records, provide notice to the affected User promptly and without reasonable delay, and work with the affected User to provide information and assistance necessary to comply with any notification to parents, legal guardians, or students, as is required by applicable law.

Contract termination/completion

Following expiration or termination of the agreement under which the User purchased access to the MobyMax web-based products or services, and upon receipt of written request from the User, MobyMax will destroy or, if agreed, return to the User, the Student Records in its possession within a commercially reasonable period of time. At any point, teachers or administrators are able to soft-delete or permanently delete student accounts and data. For clarity, data generated by MobyMax or our products that is in aggregate, or that is anonymized (i.e., personally identifiable information has been removed) may be retained by MobyMax and used for product improvement purposes.

Changes to this privacy policy

We may update this Privacy Policy at any time. When we do, we will revise the updated date at the bottom of this page. If we change the policy in a material manner, for

example, if we seek to use personal information in a materially different way than we had previously, we will provide at least 30 days' notice to you so that you have sufficient time to evaluate the change in practice. Of course, you can always opt out by deleting your account before the changes take effect.

Your acceptance of these terms

Unless you have entered into your own school or district contract with MobyMax, you signify your acceptance of this Privacy Policy by using this site. Your continued use of the Site following the posting of changes to this Privacy Policy will be deemed your acceptance of those changes.

Contacting us

If you have any questions about this Privacy Policy, the practices of this Site, or your dealings with this Site, please contact support@mobymax.com.

