

EXHIBIT D

DATA SHARING AND CONFIDENTIALITY AGREEMENT

INCLUDING
PARENTS BILL OF RIGHTS FOR DATA SECURITY AND PRIVACY
AND
SUPPLEMENTAL INFORMATION ABOUT THE MLSA

1. Purpose

- (a) This Exhibit supplements the Master License and Service Agreement ("MLSA") to which it is attached, to ensure that the MLSA conforms to the requirements of New York State Education Law Section 2-d and any implementing Regulations of the Commissioner of Education (collectively referred to as "Section 2-d"). This Exhibit consists of the terms of this Data Sharing and Confidentiality Agreement, a copy of Erie 1 BOCES' Parents Bill of Rights for Data Security and Privacy signed by the Vendor, and the Supplemental Information about the MLSA that is required to be posted on Erie 1 BOCES' website.
- (b) To the extent that any terms contained within the MLSA, or any terms contained within any other Exhibits attached to and made a part of the MLSA, conflict with the terms of this Exhibit, the terms of this Exhibit will apply and be given effect. In the event that Vendor has online or written Terms of Service ("TOS") that would otherwise be applicable to its customers or users of its Product that is the subject of the MLSA, to the extent that any term of the TOS conflicts with the terms of this Exhibit, the terms of this Exhibit will apply and be given effect.

2. Definitions

Any capitalized term used within this Exhibit that is also found in the MLSA will have the same definition as contained within the MLSA.

In addition, as used in this Exhibit:

- (a) "Student Data" means personally identifiable information, as defined in Section 2-d, from student records that Vendor receives from a Participating Educational Agency pursuant to the MLSA.
- (b) "Teacher or Principal Data" means personally identifiable information relating to the annual professional performance reviews of classroom teachers or principals that is confidential and not subject to release under the provisions of New York Education Law Sections 3012-c or 3012-d, that Vendor receives from a Participating Educational Agency pursuant to the MLSA.
- (c) "Protected Data" means Student Data and/or Teacher or Principal Data to the extent applicable to Vendor's Product.

- (d) "Participating Educational Agency" means a school district within New York State that purchases certain shared instructional technology services and software through a Cooperative Educational Services Agreement with a BOCES, and as a result is licensed to use Vendor's Product pursuant to the terms of the MLSA. For purposes of this Exhibit, the term also includes Erie 1 BOCES or another BOCES that is licensed to use Vendor's Product pursuant to the MLSA to support its own educational programs or operations.

3. **Confidentiality of Protected Data**

- (a) Vendor acknowledges that the Protected Data it receives pursuant to the MLSA may originate from several Participating Educational Agencies located across New York State, and that this Protected Data belongs to and is owned by the Participating Educational Agency from which it originates.
- (b) Vendor will maintain the confidentiality of the Protected Data it receives in accordance with federal and state law (including but not limited to Section 2-d) and Erie 1 BOCES's policy on data security and privacy. Vendor acknowledges that Erie 1 BOCES is obligated under Section 2-d to adopt a policy on data security and privacy.. Erie 1 BOCES will provide Vendor with a copy of its policy. Vendor and Erie 1 BOCES agree to engage in good faith negotiations to modify this Data Sharing Agreement to the extent necessary to ensure Vendor's continued compliance with Section 2-d.

4. **Data Security and Privacy Plan**

Vendor agrees that it will protect the confidentiality, privacy and security of the Protected Data received from Participating Educational Agencies in accordance with Erie 1 BOCES' Parents Bill of Rights for Data Privacy and Security, a copy of which has been signed by the Vendor and is set forth below.

Additional elements of Vendor's Data Security and Privacy Plan are as follows:

- (a) In order to implement all state, federal, and local data security and privacy requirements, including those contained within this Data Sharing and Confidentiality Agreement, consistent with Erie 1 BOCES' data security and privacy policy, Vendor will: Review its data security and privacy policy and practices to ensure that they are in conformance with all applicable federal, state, and local laws and the terms of this Data Sharing and Confidentiality Agreement. In the event Vendor's policy and practices are not in conformance, the Vendor will implement commercially reasonable efforts to ensure such compliance.

In order to protect the security, confidentiality and integrity of the Protected Data that it receives under the MLSA, Vendor will have the following reasonable administrative, technical, operational and physical safeguards and practices in place throughout the term of the MLSA: Hiperware Labs Inc follows educational best practices to safeguard Protected Data. Please see the indented **Data Security and Privacy Plan**

Hiperware Labs complies with educational best practices and legal requirements for administrative, technical, operational and physical safeguards and practices, including the obligations under Section 2-d of the New York State Education Law <https://codes.findlaw.com/ny/education-law/edn-sect-2-d.html> and statutory / regulatory / notification requirements of the MSLA shown on pages 37-39 of this proposal. For example, the data architecture provides for encryption of data at rest, in motion, and while in transit. Similarly all backups are kept encrypted, as outlined in page 30 and 31 above.

The contact point for any issues arising from data security or privacy concerns (including breach and unauthorized release of personally identifiable information) concerning Hiperware Labs or its data processing services is:

Written: Hiperware Labs, Inc
917 Broadway St. #117
Vancouver, WA 98660 USA
Email: support@classhero.com

The complete Hiperware Labs Privacy Policy is shown below. The links to the privacy policy of processors of Hiperware Labs data begin on page 51 of this proposal. The Hiperware Labs privacy policy can always be found at <https://www.classhero.com/privacy-policy>

Privacy Policy

ClassHero collects some Personal Data from its Users.

POLICY SUMMARY

Personal Data collected for the following purposes and using the following services:

Analytics

- Google Analytics, Google Tag Manager and WordPress Stats
Personal Data: Cookies; Usage Data
- User ID extension for Google Analytics
Personal Data: Cookies
- TestFlight
Personal Data: Cookies; email address; Usage Data
- Unity Analytics
Personal Data: Usage Data; various types of Data as specified in the privacy policy of the service

Contacting the User

- Mailing List or Newsletter
Personal Data: city; country; email address; first name; gender; last name; state; Usage Data
- Contact form
Personal Data: country; email address; various types of Data as specified in the privacy policy of the service
- Phone contact
Personal Data: phone number

Content performance and features testing (A/B testing)

- Google Website Optimizer
Personal Data: Cookies; Usage Data

Handling payments

- Stripe
Personal Data: various types of Data as specified in the privacy policy of the service

Hosting and backend infrastructure

- Heroku, Amazon Web Services (AWS), mLab, Google App Engine and DigitalOcean
Personal Data: various types of Data as specified in the privacy policy of the service

Infrastructure monitoring

- New Relic
Personal Data: various types of Data as specified in the privacy policy of the service

Managing contacts and sending messages

- Sendgrid
Personal Data: email address

Platform services and hosting

- WordPress.com
Personal Data: various types of Data as specified in the privacy policy of the service

Registration and authentication

- Direct registration
Personal Data: country; email address; first name; gender; last name
- Google OAuth
Personal Data: various types of Data as specified in the privacy policy of the service

Social features

- Inviting and suggesting friends
Personal Data: Various types of Data

User database management

- Intercom
Personal Data: Cookies; email address; Usage Data; various types of Data as specified in the privacy policy of the service

Further information about Personal Data

Children, Teacher and Parent Profiles

To enable classroom and home assignments set by teachers, and to allow parents to facilitate assignments and practice at home, we will collect the following data:

- Child name
- Child gender
- School name
- Teacher name
- Teacher email address
- Teacher's school and district
- Teacher's classroom name
- Parent name
- Parent email address
- Grade

Clever

ClassHero uses Clever, a platform that enables "Schools" (schools, school districts, and related entities and organizations that sign up to use Clever, including but not limited to administrators who access Clever on their behalf, each referred to as a "School") to securely provision the accounts with ClassHero, that it uses.

By accessing or using ClassHero services provided through its integration with Clever, you signify that you have read, understood, and agree to be bound by the Clever General Terms of Use

(<https://clever.com/about/terms>). If you're a School, Clever's Additional Terms of Use for Schools (<https://clever.com/about/terms-schools>) apply to you too. Schools decide which data is integrated with Clever, and Schools are responsible for determining whether data is ever shared with applications through Clever. Clever's privacy policy (<https://clever.com/about/privacy-policy>) applies to the Clever website <https://clever.com/> and to the Clever platform and describes the steps Clever takes to protect your data.

The Service is directed to children under the age of 13

ClassHero is directed to children under the age of 13. It doesn't require the child to disclose any more information than is reasonably necessary to participate in its activity.

Parents may review the personal information about their child collected by ClassHero – if any – outlined in the rest of this policy, ask for its deletion and request any further collection or use to be omitted by contacting the

Owner. Parents may also agree to the collection and use of their child's information, but still not allow disclosure to third parties, unless disclosure is integral to the Service.

Unique device identification

ClassHero may track Users by storing a unique identifier of their device, for analytics purposes or for storing Users' preferences.

- **Push notifications**

ClassHero may send push notifications to the User.

Contact information

- **Owner and Data Controller**

Hiperware Labs Inc
915 Broadway St #117,
Vancouver, WA 98660, USA
Owner contact email: support@classhero.com

FULL POLICY

Owner and Data Controller

Hiperware Labs Inc
915 Broadway St #117,
Vancouver, WA 98660, USA
Owner contact email: support@classhero.com

Types of Data collected

Among the types of Personal Data that ClassHero collects, by itself or through third parties, there are: Cookies; Usage Data; email address; first name; last name; state; country; gender; city; Various types of Data; phone number.

Complete details on each type of Personal Data collected are provided in the dedicated sections of this privacy policy or by specific explanation texts displayed prior to the Data collection.

Personal Data may be freely provided by the User, or, in case of Usage Data, collected automatically when using ClassHero.

Unless specified otherwise, all Data requested by ClassHero is mandatory and failure to provide this Data may make it impossible for ClassHero to provide its services. In cases where ClassHero specifically states that some Data is not mandatory, Users are free not to communicate this Data without consequences to the availability or the functioning of the Service. Users who are uncertain about which Personal Data is mandatory are welcome to contact the Owner.

Any use of Cookies – or of other tracking tools – by ClassHero or by the owners of third-party services used by ClassHero serves the purpose of providing the Service required by the User, in addition to any other purposes described in the present document and in the Cookie Policy, if available.

Users are responsible for any third-party Personal Data obtained, published or shared through ClassHero and confirm that they have the third party's consent to provide the Data to the Owner.

Mode and place of processing the Data

Methods of processing

The Owner takes appropriate security measures to prevent unauthorized access, disclosure, modification, or unauthorized destruction of the Data. The Data processing is carried out using computers and/or IT enabled tools, following organizational procedures and modes strictly related to the purposes indicated. In addition to the Owner, in some cases, the Data may be accessible to certain types of persons in charge, involved with the operation of ClassHero (administration, sales, marketing, legal, system administration) or external parties (such as third-party technical service providers, mail carriers, hosting providers, IT companies, communications agencies) appointed, if necessary, as Data Processors by the Owner. The updated list of these parties may be requested from the Owner at any time.

Legal basis of processing

The Owner may process Personal Data relating to Users if one of the following applies:

- Users have given their consent for one or more specific purposes.
Note: Under some legislations the Owner may be allowed to process Personal Data until the User objects to such processing (“opt-out”), without having to rely on consent or any other of the following legal bases. This, however, does not apply, whenever the processing of Personal Data is subject to European data protection law;
- provision of Data is necessary for the performance of an agreement with the User and/or for any pre-contractual obligations thereof;

- processing is necessary for compliance with a legal obligation to which the Owner is subject;
- processing is related to a task that is carried out in the public interest or in the exercise of official authority vested in the Owner;
- processing is necessary for the purposes of the legitimate interests pursued by the Owner or by a third party.

In any case, the Owner will gladly help to clarify the specific legal basis that applies to the processing, and in particular whether the provision of Personal Data is a statutory or contractual requirement, or a requirement necessary to enter into a contract.

Place

The Data is processed at the Owner's operating offices and in any other places where the parties involved in the processing are located. Depending on the User's location, data transfers may involve transferring the User's Data to a country other than their own. To find out more about the place of processing of such transferred Data, Users can check the section containing details about the processing of Personal Data. Users are also entitled to learn about the legal basis of Data transfers to a country outside the European Union or to any international organization governed by public international law or set up by two or more countries, such as the UN, and about the security measures taken by the Owner to safeguard their Data. If any such transfer takes place, Users can find out more by checking the relevant sections of this document or inquire with the Owner using the information provided in the contact section.

Retention time

Personal Data shall be processed and stored for as long as required by the purpose they have been collected for.

Therefore:

- Personal Data collected for purposes related to the performance of a contract between the Owner and the User shall be retained until such contract has been fully performed.
- Personal Data collected for the purposes of the Owner's legitimate interests shall be retained as long as needed to fulfill such purposes. Users may find specific information regarding the legitimate interests pursued by the Owner within the relevant sections of this document or by contacting the Owner.

The Owner may be allowed to retain Personal Data for a longer period whenever the User has given consent to such processing, as long as such consent is not withdrawn. Furthermore, the Owner may be obliged to retain Personal Data for a longer period whenever required to do so for the performance of a legal obligation or upon order of an authority. Once the retention period expires, Personal Data shall be deleted. Therefore, the right to access, the right to erasure, the right to rectification and the right to data portability cannot be enforced after expiration of the retention period.

The purposes of processing

The Data concerning the User is collected to allow the Owner to provide its Services, as well as for the following purposes: Analytics, Contacting the User, Content performance and features testing (A/B testing), Hosting and backend infrastructure, Infrastructure monitoring, Managing contacts and sending messages, Registration and authentication, Social features, Handling payments, Platform services and hosting and User database management.

Users can find further detailed information about such purposes of processing and about the specific Personal Data used for each purpose in the respective sections of this document.

Detailed information on the processing of Personal Data

Personal Data is collected for the following purposes and using the following services:

- **Analytics**

The services contained in this section enable the Owner to monitor and analyze web traffic and can be used to keep track of User behavior.

GOOGLE ANALYTICS (GOOGLE INC.)

Google Analytics is a web analysis service provided by Google Inc. ("Google"). Google utilizes the Data collected to track and examine the use of ClassHero, to prepare reports on its activities and share them with other Google services.

Google may use the Data collected to contextualize and personalize the ads of its own advertising network.

Personal Data collected: Cookies; Usage Data.

Place of processing: US – [Privacy Policy](#) – [Opt Out](#).

USER ID EXTENSION FOR GOOGLE ANALYTICS (GOOGLE INC.)

Google Analytics on ClassHero makes use of a feature called User ID. This setup allows for a more accurate tracking of Users by associating

that User with the same ID over various sessions and devices. It is set up in a way that doesn't allow Google to personally identify an individual or permanently identify a particular device.

The User ID extension might make it possible to connect Data from Google Analytics with other Data about the User collected by ClassHero.

The opt-out link below will only opt you out for the device you are on, but not from tracking performed independently by the Owner.

Contact the Owner via the email address provided in this privacy policy to object to the aforementioned tracking as well.

Personal Data collected: Cookies.

Place of processing: US – [Privacy Policy](#) – [Opt Out](#). Privacy Shield participant.

GOOGLE TAG MANAGER (GOOGLE INC.)

Google Tag Manager is an analytics service provided by Google Inc.

Personal Data collected: Cookies; Usage Data.

Place of processing: US – [Privacy Policy](#).

TESTFLIGHT (APPLE INC.)

TestFlight is an analytics service provided by Apple Inc.

Personal Data collected: Cookies; email address; Usage Data.

Place of processing: US – [Privacy Policy](#).

UNITY ANALYTICS (UNITY TECHNOLOGIES APS)

Unity Analytics is an analytics service provided by Unity Technologies ApS.

Personal Data collected: Usage Data; various types of Data as specified in the privacy policy of the service.

Place of processing: Denmark – [Privacy Policy](#).

WORDPRESS STATS (AUTOMATTIC INC.)

WordPress Stats is an analytics service provided by Automattic Inc.

Personal Data collected: Cookies; Usage Data.

Place of processing: US – [Privacy Policy](#).

- **Contacting the User**

MAILING LIST OR NEWSLETTER (CLASSHERO)

By registering on the mailing list or for the newsletter, the User's email address will be added to the contact list of those who may receive email messages containing information of commercial or promotional nature concerning ClassHero. Your email address might also be added to this list as a result of signing up to ClassHero or after making a purchase.

Personal Data collected: city; country; email address; first name; gender; last name; state; Usage Data.

CONTACT FORM (CLASSHERO)

By filling in the contact form with their Data, the User authorizes ClassHero to use these details to reply to requests for information, quotes or any other kind of request as indicated by the form's header. Personal Data collected: country; email address; various types of Data as specified in the privacy policy of the service.

PHONE CONTACT (CLASSHERO)

Users that provided their phone number might be contacted for commercial or promotional purposes related to ClassHero, as well as for fulfilling support requests.

Personal Data collected: phone number.

- **Content performance and features testing (A/B testing)**

The services contained in this section allow the Owner to track and analyze the User response concerning web traffic or behavior regarding changes to the structure, text or any other component of ClassHero.

GOOGLE WEBSITE OPTIMIZER (GOOGLE INC.)

Google Website Optimizer is an A/B testing service provided by Google Inc.

Google may use Personal Data to contextualize and personalize the ads of its own advertising network.

Personal Data collected: Cookies; Usage Data.

Place of processing: US – [Privacy Policy](#).

- **Handling payments**

Payment processing services enable ClassHero to process payments by credit card, bank transfer or other means. To ensure greater security, ClassHero shares only the information necessary to execute the transaction with the financial intermediaries handling the transaction.

Some of these services may also enable the sending of timed messages to the User, such as emails containing invoices or notifications concerning the payment.

STRIPE (STRIPE INC)

Stripe is a payment service provided by Stripe Inc.

Personal Data collected: various types of Data as specified in the privacy policy of the service.

Place of processing: US – [Privacy Policy](#).

- **Hosting and backend infrastructure**

This type of services has the purpose of hosting data and files that enable ClassHero to run and be distributed as well as to provide a ready-made infrastructure to run specific features or parts of ClassHero. Some of these services work through geographically distributed servers, making it difficult to determine the actual location

where the Personal Data are stored.

HEROKU (HEROKU, INC.)

Heroku is a hosting service provided by Salesforce.com, inc.

Personal Data collected: various types of Data as specified in the privacy policy of the service.

Place of processing: US – [Privacy Policy](#).

AMAZON WEB SERVICES (AWS) (AMAZON)

Amazon Web Services (AWS) is a hosting and backend service provided by Amazon Web Services, Inc.

Personal Data collected: various types of Data as specified in the privacy policy of the service.

Place of processing: See the Amazon privacy policy – [Privacy Policy](#).
Privacy Shield participant.

MLAB (OBJECTLABS CORPORATION)

mLab is a hosting and backend service provided by ObjectLabs Corporation.

Personal Data collected: various types of Data as specified in the privacy policy of the service.

Place of processing: US – [Privacy Policy](#).

GOOGLE APP ENGINE (GOOGLE INC.)

Google App Engine is a hosting service provided by Google LLC or by Google Ireland Limited, depending on the location ClassHero is accessed from.

Personal Data collected: various types of Data as specified in the privacy policy of the service.

Place of processing: US – [Privacy Policy](#). Privacy Shield participant.

DIGITALOCEAN (DIGITALOCEAN INC.)

DigitalOcean is a hosting service provided by DigitalOcean Inc.

Personal Data collected: various types of Data as specified in the privacy policy of the service.

Place of processing: United States – [Privacy Policy](#). Privacy Shield participant.

- **Infrastructure monitoring**

This type of services allows ClassHero to monitor the use and behavior of its components so its performance, operation, maintenance and troubleshooting can be improved.

Which Personal Data are processed depends on the characteristics and mode of implementation of these services, whose function is to filter the activities of ClassHero.

NEW RELIC (NEW RELIC)

New Relic is a monitoring service provided by New Relic Inc.

The way New Relic is integrated means that it filters all traffic of

ClassHero, i.e., communication between the Application and the User's browser or device, while also allowing analytical data on ClassHero to be collected.

Personal Data collected: various types of Data as specified in the privacy policy of the service.

Place of processing: US – [Privacy Policy](#).

- **Managing contacts and sending messages**

This type of services makes it possible to manage a database of email contacts, phone contacts or any other contact information to communicate with the User.

These services may also collect data concerning the date and time when the message was viewed by the User, as well as when the User interacted with it, such as by clicking on links included in the message.

SENDGRID (SENDGRID)

Sendgrid is an email address management and message sending service provided by Sendgrid Inc.

Personal Data collected: email address.

Place of processing: US – [Privacy Policy](#).

- **Platform services and hosting**

These services have the purpose of hosting and running key components of ClassHero, therefore allowing the provision of ClassHero from within a unified platform. Such platforms provide a wide range of tools to the Owner – e.g. analytics, user registration, commenting, database management, e-commerce, payment processing – that imply the collection and handling of Personal Data. Some of these services work through geographically distributed servers, making it difficult to determine the actual location where the Personal Data are stored.

WORDPRESS.COM (AUTOMATTIC INC.)

WordPress.com is a platform provided by Automattic Inc. that allows the Owner to build, run and host ClassHero.

Personal Data collected: various types of Data as specified in the privacy policy of the service.

Place of processing: USA – [Privacy Policy](#).

- **Registration and authentication**

By registering or authenticating, Users allow ClassHero to identify them and give them access to dedicated services.

Depending on what is described below, third parties may provide registration and authentication services. In this case, ClassHero will be able to access some Data, stored by these third party services, for registration or identification purposes.

DIRECT REGISTRATION (CLASSHERO)

The User registers by filling out the registration form and providing the Personal Data directly to ClassHero.

Personal Data collected: country; email address; first name; gender; last name.

GOOGLE OAUTH (GOOGLE INC.)

Google OAuth is a registration and authentication service provided by Google Inc. and is connected to the Google network.

Personal Data collected: various types of Data as specified in the privacy policy of the service.

Place of processing: US – [Privacy Policy](#).

- **Social features**

INVITING AND SUGGESTING FRIENDS (CLASSHERO)

ClassHero may use the Personal Data provided to allow Users to invite their friends – for example through the address book, if access has been provided – and to suggest friends or connections inside it.

Personal Data collected: Various types of Data.

- **User database management**

Further information about Personal Data

- **Children, Teacher and Parent Profiles**

To enable classroom and home assignments set by teachers, and to allow parents to facilitate assignments and practice at home, we will collect the following data:

- Child name
- Child gender
- School name
- Teacher name
- Teacher email address
- Teacher's school and district
- Teacher's classroom name
- Parent name
- Parent email address
- Grade

- **Clever**

ClassHero uses Clever, a platform that enables "Schools" (schools, school districts, and related entities and organizations that sign up to use Clever, including but not limited to administrators who access Clever on their behalf, each referred to as a "School") to securely provision the accounts with ClassHero, that it uses.

By accessing or using ClassHero services provided through its integration with Clever, you signify that you have read, understood, and agree to be bound by the Clever General Terms of Use (<https://clever.com/about/terms>). If you're a School, Clever's Additional Terms of Use for Schools (<https://clever.com/about/terms-schools>) apply to you too. Schools decide which data is integrated with Clever, and Schools are responsible for determining whether data is ever shared with applications through Clever. Clever's privacy policy (<https://clever.com/about/privacy-policy>) applies to the Clever website <https://clever.com/> and to the Clever platform and describes the steps Clever takes to protect your data.

- **The Service is directed to children under the age of 13**

ClassHero is directed to children under the age of 13. It doesn't require the child to disclose any more information than is reasonably necessary to participate in its activity.

Parents may review the personal information about their child collected by ClassHero – if any – outlined in the rest of this policy, ask for its deletion and request any further collection or use to be omitted by contacting the Owner. Parents may also agree to the collection and use of their child's information, but still not allow disclosure to third parties, unless disclosure is integral to the Service.

- **Unique device identification**

ClassHero may track Users by storing a unique identifier of their device, for analytics purposes or for storing Users' preferences.

- **Push notifications**

ClassHero may send push notifications to the User.

The rights of Users

Users may exercise certain rights regarding their Data processed by the Owner.

In particular, Users have the right to do the following:

- Withdraw their consent at any time. Users have the right to withdraw consent where they have previously given their consent to the processing of their Personal Data.
- Object to processing of their Data. Users have the right to object to the processing of their Data if the processing is carried out on a legal basis other than consent. Further details are provided in the dedicated section below.
- Access their Data. Users have the right to learn if Data is being processed by the Owner, obtain disclosure regarding certain aspects

of the processing and obtain a copy of the Data undergoing processing.

- Verify and seek rectification. Users have the right to verify the accuracy of their Data and ask for it to be updated or corrected.
- Restrict the processing of their Data. Users have the right, under certain circumstances, to restrict the processing of their Data. In this case, the Owner will not process their Data for any purpose other than storing it.
- Have their Personal Data deleted or otherwise removed. Users have the right, under certain circumstances, to obtain the erasure of their Data from the Owner.
- Receive their Data and have it transferred to another controller. Users have the right to receive their Data in a structured, commonly used and machine readable format and, if technically feasible, to have it transmitted to another controller without any hindrance. This provision is applicable provided that the Data is processed by automated means and that the processing is based on the User's consent, on a contract which the User is part of or on pre-contractual obligations thereof.
- Lodge a complaint. Users have the right to bring a claim before their competent data protection authority.

Details about the right to object to processing

Where Personal Data is processed for a public interest, in the exercise of an official authority vested in the Owner or for the purposes of the legitimate interests pursued by the Owner, Users may object to such processing by providing a ground related to their particular situation to justify the objection.

Users must know that, however, should their Personal Data be processed for direct marketing purposes, they can object to that processing at any time without providing any justification. To learn, whether the Owner is processing Personal Data for direct marketing purposes, Users may refer to the relevant sections of this document.

How to exercise these rights

Any requests to exercise User rights can be directed to the Owner through the contact details provided in this document. These requests can be exercised free of charge and will be addressed by the Owner as early as possible and always within one month.

Additional information about Data collection and processing**Legal action**

The User's Personal Data may be used for legal purposes by the Owner in Court or in the stages leading to possible legal action arising from improper use of ClassHero or the related Services.

The User declares to be aware that the Owner may be required to reveal personal data upon request of public authorities.

Additional information about User's Personal Data

In addition to the information contained in this privacy policy, ClassHero may provide the User with additional and contextual information concerning particular Services or the collection and processing of Personal Data upon request.

System logs and maintenance

For operation and maintenance purposes, ClassHero and any third-party services may collect files that record interaction with ClassHero (System logs) use other Personal Data (such as the IP Address) for this purpose.

Information not contained in this policy

More details concerning the collection or processing of Personal Data may be requested from the Owner at any time. Please see the contact information at the beginning of this document.

How "Do Not Track" requests are handled

ClassHero does not support "Do Not Track" requests.

To determine whether any of the third-party services it uses honor the "Do Not Track" requests, please read their privacy policies.

Changes to this privacy policy

The Owner reserves the right to make changes to this privacy policy at any time by giving notice to its Users on this page and possibly within ClassHero and/or – as far as technically and legally feasible – sending a notice to Users via any contact information available to the Owner. It is strongly recommended to check this page often, referring to the date of the last modification listed at the bottom.

Should the changes affect processing activities performed on the basis of the User's consent, the Owner shall collect new consent from the User, where required.

Definitions and legal references

Latest update: July 18, 2019

(b)]

- (c) Vendor will comply with all obligations set forth in Erie 1 BOCES' "Supplemental Information about the MLSA" below.

- (d) For any of its officers or employees (or officers or employees of any of its subcontractors or assignees) who have access to Protected Data, Vendor has provided or will provide training on the federal and state laws governing confidentiality of such data prior to their receiving access, as follows: Annually, Vendor will require that all of its employees (or officers or employees of any of its subcontractors or assignees) undergo data security and privacy training to ensure that these individuals are aware of and familiar with all applicable data security and privacy laws.
- (e) Vendor [*check one*] ☒ will ☐ will not utilize sub-contractors for the purpose of fulfilling one or more of its obligations under the MLSA. In the event that Vendor engages any subcontractors, assignees, or other authorized agents to perform its obligations under the MLSA, it will require such subcontractors, assignees, or other authorized agents to execute written agreements as more fully described in Erie 1 BOCES' "Supplemental Information about the MLSA," below.
- (f) Vendor will manage data security and privacy incidents that implicate Protected Data, including identifying breaches and unauthorized disclosures, and Vendor will provide prompt notification of any breaches or unauthorized disclosures of Protected Data in accordance with Section 6 of this Data Sharing and Confidentiality Agreement.
- (g) Vendor will implement procedures for the return, transition, deletion and/or destruction of Protected Data at such time that the MLSA is terminated or expires, as more fully described in Erie 1 BOCES' "Supplemental Information about the MLSA," below.

5. **Additional Statutory and Regulatory Obligations**

Vendor acknowledges that it has the following additional obligations with respect to any Protected Data received from Participating Educational Agencies, and that any failure to fulfill one or more of these statutory or regulatory obligations shall be a breach of the MLSA and the terms of this Data Sharing and Confidentiality Agreement:

- (a) Limit internal access to education records to those individuals that are determined to have legitimate educational interests within the meaning of Section 2-d and the Family Educational Rights and Privacy Act (FERPA).
- (b) Limit internal access to Protected Data to only those employees or subcontractors that need access in order to assist Vendor in fulfilling one or more of its obligations under the MLSA.
- (c) Not use education records for any purposes other than those explicitly authorized in this Data Sharing and Confidentiality Agreement.
- (d) Not disclose any personally identifiable information to any other party, except for authorized representatives of Vendor using the information to carry out Vendor's obligations under the MLSA, unless:
 - (i) the parent or eligible student has provided prior written consent; or

- (ii) the disclosure is required by statute or court order and notice of the disclosure is provided to Participating Educational Agency no later than the time of disclosure, unless such notice is expressly prohibited by the statute or court order.
- (e) Maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable student information in its custody;
- (f) Use encryption technology that complies with Section 2-d, as more fully set forth in Erie 1 BOCES' "Supplemental Information about the MLSA," below.
- (g) Provide notification to Erie 1 BOCES (and Participating Educational Agencies, to the extent required by, and in accordance with, Section 6 of this Data Sharing and Confidentiality Agreement) of any breach of security resulting in an unauthorized release of Protected Data by Vendor or its assignees or subcontractors in violation of state or federal law or other obligations relating to data privacy and security contained herein.
- (h) Promptly reimburse Erie 1 BOCES, another BOCES, or a Participating School District for the full cost of notification, in the event they are required under Section 2-d to notify affected parents, students, teachers or principals of a breach or unauthorized release of Protected Data attributed to Vendor or its subcontractors or assignees.

6. **Notification of Breach and Unauthorized Release**

- (a) Vendor shall promptly notify Erie 1 BOCES of any breach or unauthorized release of Protected Data in the most expedient way possible and without unreasonable delay, but no more than seven (7) calendar days after Vendor has discovered or been informed of the breach or unauthorized release.
- (b) Vendor will provide such notification to Erie 1 BOCES by contacting Michelle Okal-Frink directly by email at mokal@e1b.org, or by calling (716) 821-7200 (office) or (716) 374-5460 (cell).
- (c) Vendor will cooperate with Erie 1 BOCES and provide as much information as possible directly to Michelle Okal-Frink or her designee about the incident, including but not limited to: a description of the incident, the date of the incident, the date Vendor discovered or was informed of the incident, a description of the types of personally identifiable information involved, an estimate of the number of records affected, the Participating Educational Agencies affected, what the Vendor has done or plans to do to investigate the incident, stop the breach and mitigate any further unauthorized access or release of Protected Data, and contact information for Vendor representatives who can assist affected individuals that may have additional questions.
- (d) Vendor acknowledges that upon initial notification from Vendor, Erie 1 BOCES, as the educational agency with which Vendor contracts, has an obligation under Section 2-d to in turn notify the Chief Privacy Officer in the New York State Education Department ("CPO"). Vendor shall not provide this notification to the CPO directly. In the event the CPO contacts Vendor directly or requests more information from Vendor regarding the

incident after having been initially informed of the incident by Erie 1 BOCES, Vendor will promptly inform Michelle Okal-Frink or her designees.

- (e) Vendor will consult directly with Michelle Okal-Frink or her designees prior to providing any further notice of the incident (written or otherwise) directly to any other BOCES or Regional Information Center, or any affected Participating Educational Agency.

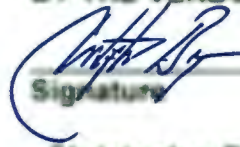
EXHIBIT D (CONTINUED)

PARENTS BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

Erie 1 BOCES is committed to protecting the privacy and security of student, teacher, and principal data. In accordance with New York Education Law § 2-d, the BOCES wishes to inform the community of the following:

- (1) A student's personally identifiable information cannot be sold or released for any commercial purposes.
- (2) Parents have the right to inspect and review the complete contents of their child's education record.
- (3) State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.
- (4) A complete list of all student data elements collected by the State is available for public review at <http://www.nysed.gov/data-privacy-security/student-data-inventory>, or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, New York 12234.
- (5) Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed in writing to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234. Complaints may also be submitted using the form available at the following website: <http://www.nysed.gov/data-privacy-security/report-improper-disclosure>

BY THE VENDOR:



Signature

Christopher Buja

Printed Name

Dir Business Development

Title

22 Mar 2022

Date

EXHIBIT D (CONTINUED)**SUPPLEMENTAL INFORMATION****ABOUT THE MASTER LICENSE AND SERVICE AGREEMENT
BETWEEN
ERIE 1 BOCES AND HIPERWARE LABS INC.**

Erie 1 BOCES has entered into a Master License and Service Agreement ("MLSA") with *Hiperware Labs Inc.* which governs the availability to Participating Educational Agencies of the following Product(s):

ClassHero

Pursuant to the MLSA, Participating Educational Agencies may provide to Vendor, and Vendor will receive, personally identifiable information about students, or teachers and principals, that is protected by Section 2-d of the New York State Education Law ("Protected Data").

Exclusive Purpose for which Protected Data will be Used: The exclusive purpose for which Vendor is being provided access to Protected Data is to provide Participating Educational Agencies with the functionality of the Product(s) listed above. Vendor agrees that it will not use the Protected Data for any other purposes not explicitly authorized in the MLSA. Protected Data received by Vendor, or any of Vendor's subcontractors, assignees, or other authorized agents, will not be sold, or released or used for any commercial or marketing purposes.

Oversight of Subcontractors: In the event that Vendor engages subcontractors, assignees, or other authorized agents to perform one or more of its obligations under the MLSA (including any hosting service provider), it will require those to whom it discloses Protected Data to execute legally binding agreements acknowledging the obligation under Section 2-d of the New York State Education Law to comply with the same data security and privacy standards required of Vendor under the MLSA and applicable state and federal law. Vendor will ensure that such subcontractors, assignees, or other authorized agents abide by the provisions of these agreements by: *Vendor's contracts with data processors such as IBM, Salesforce and AWS.*

Duration of MLSA and Protected Data Upon Expiration:

- The MLSA commences on 1 March 2022 and expires on 30 June 2024.
- Upon expiration of the MLSA without renewal, or upon termination of the MLSA prior to expiration, Vendor will securely delete or otherwise destroy any and all Protected Data remaining in the possession of Vendor or its assignees or subcontractors or other authorized persons or entities to whom it has disclosed Protected Data. If requested by Erie 1 BOCES and/or any Participating Educational Agency, Vendor will assist a Participating Educational Agency in exporting all Protected Data previously received back to the Participating Educational Agency for its own use, prior to deletion, in such formats as may be requested by the Participating Educational Agency.

- In the event the Master Agreement is assigned to a successor Vendor (to the extent authorized by the Master Agreement), the Vendor will cooperate with Erie 1 BOCES as necessary to transition Protected Data to the successor Vendor prior to deletion.
- Neither Vendor nor any of its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data will retain any Protected Data, copies, summaries or extracts of the Protected Data, or any de-identified Protected Data, on any storage medium whatsoever. Upon request, Vendor and/or its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data, as applicable, will provide Erie 1 BOCES with a certification from an appropriate officer that these requirements have been satisfied in full.

Challenging Accuracy of Protected Data: Parents or eligible students can challenge the accuracy of any Protected Data provided by a Participating Educational Agency to Vendor, by contacting the student's district of residence regarding procedures for requesting amendment of education records under the Family Educational Rights and Privacy Act (FERPA). Teachers or principals may be able to challenge the accuracy of APPR data provided to Vendor by following the appeal process in their employing school district's applicable APPR Plan.

Data Storage and Security Protections: Any Protected Data Vendor receives will be stored on systems maintained by Vendor, or by a subcontractor under the direct control of Vendor, in a secure data center facility located within the United States. The measures that Vendor will take to protect Protected Data include adoption of technologies, safeguards and practices that align with the NIST Cybersecurity Framework and industry best practices including, but not necessarily limited to, disk encryption, file encryption, firewalls, and password protection.

Encryption of Protected Data: Vendor (or, if applicable, its subcontractors) will protect Protected Data in its custody from unauthorized disclosure while in motion or at rest, using a technology or methodology specified by the secretary of the U.S. Department of HHS in guidance issued under Section 13402(H)(2) of P.L. 111-5.