

**ADDENDUM TO GAGGLE SERVICES TERMS & CONDITIONS AND SERVICE
LEVEL AGREEMENT**

FOR MAKING WAVES ACADEMY

IN CONSIDERATION of the mutual promises by Gaggle.Net, Inc. ("Gaggle") and Making Waves Academy in this Addendum, Gaggle and Making Waves Academy agree to the following changes to the Gaggle Services Terms and Conditions and Service Level Agreement.

No modification of this Addendum shall be binding unless in writing and expressing an intent to modify the Addendum and signed by an authorized representative from each party. No unilateral revision to Gaggle's Services Terms and Conditions or Service Level Agreement by Gaggle shall nullify or modify the terms of this Addendum.

Section 3 ("Privacy and Security") of the Gaggle Services Terms and Conditions is amended to read:

Gaggle uses a variety of measures to protect the security and privacy of its users. Users should be aware, however, that Gaggle cannot guarantee security and confidentiality through its Services. Gaggle accepts no responsibility for harm caused directly or indirectly by use of its Services. Users should also be aware that the use of Gaggle Email and/or Email through third-party products such as those from Google Inc. and Microsoft Corporation is not private. Although Gaggle is not obligated to do so, it has the right to review and monitor your content and communications, including but not limited to fulfilling obligations set forth in your contract or Subscription Agreement, to backup or review messages to identify network problems, or to determine whether you comply with our Terms & Conditions. Gaggle, at its discretion, may choose to turn over or make available message content to appropriate Customer school organization personnel, the National Center for Missing and Exploited Children ("NCMEC") and/or law enforcement agencies, if required.

For more information, please also refer to the Gaggle Privacy Policy and Gaggle Student Data Privacy Notice.

Section 4 ("Confidentiality Policy") of the Gaggle Services Terms and Conditions is hereby amended to read:

As used herein, "Confidential Information" shall mean the respective parties' proprietary information or material to which the other party may become aware of as a result of this Agreement, including but not limited to research data, methodologies, products, services, processes, formulas, technology, or other business information disclosed to one party by the other, either directly or indirectly, whether in writing, orally or otherwise, but not including any of the foregoing which was known to the receiving party at the time of disclosure from a source other than the disclosing party or any third party that owed a duty of confidentiality with respect to such information to the disclosing party or which has become publicly known and made generally available through no wrongful act or omission of the receiving party or of others who were under confidentiality obligations with respect thereto. Each party agrees that with respect to the Confidential Information of the other party, during the term of this Agreement and thereafter, such party: (a) shall

at all times maintain the confidentiality of the Confidential Information, using the same degree of care that such party uses to protect its own confidential information of a like nature and, (b) shall not disclose the Confidential Information to any other individual, entity or third party, except as permitted herein or as may be required by (or as deemed advisable by counsel under) applicable law, rule, regulation, court order, legal process or governmental, judicial, regulatory or self-regulatory oversight.

Section 5 (“Family Educational Rights and Privacy Act (FERPA)”) of the Gaggle Services Terms and Conditions is hereby amended to read:

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99) is a federal law that protects the privacy of student education records. You and Gaggle shall comply with FERPA and its applicable regulations. Gaggle shall not disclose any student’s education records, personal identifiable information or other related records monitored, maintained and retained by Gaggle and/or other Services provided by Gaggle to any third party (other than your school organization) without proper prior written and signed authority. Gaggle shall maintain the privacy and confidentiality of all student education records, and shall make available to your school organization the right to inspect and review the student education records upon request. Gaggle shall not disclose or transmit student education records or information to any unauthorized party without the prior consent of the student, guardian and/or your school organization, or by court order, administrative order or subpoena. Notwithstanding the foregoing, to protect your school or district against the risks involved in handling child pornography, Gaggle registers incidents containing pornographic videos and images of possible minors with the CyberTipline at the National Center for Missing and Exploited Children (“NCMEC”). It is NCMEC’s mission to prevent the spread of child pornography, as well as to prevent the sexual exploitation of children. For more information, consult the Gaggle Student Data Privacy Notice. For more information, consult the Gaggle Student Data Privacy Notice.

Section 10 (“Termination”) of the Gaggle Services Terms and Conditions is hereby amended to read:

Customer may terminate the Services under this Agreement at the end of any contract by providing thirty (30) days written notice of the intent to terminate. Customer or Gaggle may also terminate the Agreement or suspend Services upon breach the conditions of this Agreement, the Gaggle Service Level Agreement (SLA), the contract or Subscription Agreement.

You can cancel your Services by sending your cancellation notice to Gaggle, PO Box 1352, Bloomington, IL 61702-1361, sending email to support@gaggle.net or by fax to 309-665-0171.

Gaggle can, at any time, modify or discontinue any of its Services without liability to any user or third party. Gaggle shall not discontinue any of the Services it provides to Customer pursuant to a contract or Subscription Agreement with Customer without the prior written and signed consent of an authorized representative of Customer.

Section 11 (“Limitation of Liability, Statute of Limitations”) of the Gaggle Services Terms and Conditions is hereby amended to read:

In no event shall Gaggle be liable with respect to Services (i) for any indirect, incidental, punitive or consequential damages of any kind whatsoever. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations and exclusions may not apply to you. You agree that regardless of any statute or law to the contrary, any claim or cause of action against Gaggle arising out of or related to use of Services or the terms of use must be filed within one (1) year after such claim or cause of action arose or be forever barred.

You assume total responsibility for the use of Gaggle Services and use these Services at your own risk. Gaggle exercises no control over and has no responsibility whatsoever for actions taken on the Internet, and Gaggle expressly disclaims any responsibility for such actions. You acknowledge to Gaggle, and for Gaggle's benefit and the benefit of its directors, employees, licensors and agents, that the Services may contain bugs and are not designed or intended for use in mission critical environments requiring fail-safe performance. Notwithstanding the foregoing, Gaggle will make reasonable efforts to timely correct or repair any bugs or defects contained in the Services.

Section 16 ("Indemnity") of the Gaggle Services Terms and Conditions is hereby amended to read:

1. INSURANCE

- a. Without in anyway limiting Gaggle's liability pursuant to the "Indemnification" section of this Agreement, and notwithstanding any other provision of the Gaggle Services Terms and Conditions, Gaggle shall procure and maintain during the full term of this Agreement the following insurance amounts and coverage:

Coverage:

- A. Coverage for Professional Liability appropriate to the Gaggle's profession covering Gaggle's wrongful acts, negligent actions, errors or omissions. The retroactive date (if any) is to be no later than the effective date of this agreement.
- B. Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001).
- C. Gaggle shall secure Cyber Liability Insurance for claims and losses with respect to network or data risks to cover security, privacy, business interruption, cyber extortion, denial of service, data breaches, release of confidential information, unauthorized access/use of information, and identity theft.
- D. Insurance Services Office Automobile Liability Coverage (Form CA 0001), covering Symbol 1 (any auto) if services will be performed on Making Waves Academy premises.
- E. Workers' Compensation and Employer's Liability.

Limits: Gaggle shall maintain limits no less than the following -

- F. Professional Liability - One million dollars (\$1,000,000) per claim.
 - G. General Liability - One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage and \$2,000,000 annual aggregate.
 - H. Cyber Liability - \$1,000,000 per occurrence and \$2,000,000 aggregate.
 - I. Automobile Liability - One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.
 - J. Workers' Compensation as required by law. Employer's liability insurance in the amount \$500,000 per accident for bodily injury and disease.
- b. Commercial General Liability and Business Automobile Liability policies must provide the following:
- i. Name as Additional Insured the Making Waves Academy and its Board, officers, authorized volunteers, agents, authorizer, and employees.
 - ii. That such policies are primary insurance to any other insurance available to the Additional Insured, with respect to any claims arising out of this Agreement and that such policies apply separately to each insured against who claim is made or suit is brought.
- c. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A:VII or equivalent or as otherwise approved by the Making Waves Academy.
- d. All policies shall provide thirty (30) days advance written notice to the Making Waves Academy of cancellation, non-renewal or reduction in coverage.
- e. If any policies are written on a claims-made form, Gaggle agrees to maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of at least one year beyond the expiration of this Agreement, such that should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered.
- f. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the Making Waves Academy receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the Making Waves Academy may, at

its sole option, terminate this Agreement effective on the date of such lapse of insurance.

- g. Before commencing any operations under this Agreement, Gaggle must provide the Making Waves Academy with the certificates of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative, and **additional insured policy endorsements in form (CG 20 10 11 85 or its equivalent)** and with insurers satisfactory to the Making Waves Academy, evidencing all coverages set forth above, and shall furnish complete copies of policies promptly upon the Making Waves Academy's request. Such evidence shall also include a confirmation that coverage includes or has been modified to include the required coverages set forth in section 7 of the General Conditions of this Agreement. Gaggle also understands and agrees that the Making Waves Academy may withhold payment for services performed for any violations of the insurance provisions of this Agreement.
- h. Approval of the insurance by the Making Waves Academy shall not relieve or decrease the liability of Gaggle hereunder.
- i. Any deductible or self-insured retention must be declared to and approved by the Making Waves Academy. At the option of the Making Waves Academy, the insurer shall either reduce or eliminate such deductibles or self-insured retention.

2. **INDEMNIFICATION**

Notwithstanding any other provision of the Gaggle Services Terms and Conditions, Gaggle shall indemnify and hold harmless the Making Waves Academy, its authorizers and its Board members, officers, employees, authorized volunteers and agents from, and if requested, shall defend them, against all liabilities, obligations, losses, damages, judgments, claims, penalties, fines, costs or expenses (including legal fees, attorney's fees and costs and costs of investigation) (collectively "Losses") caused solely by the active negligence or willful misconduct of Gaggle for:

- a. Injury or death of any individual, or the loss, damage or destruction of any real or personal property caused, directly or indirectly, by any act or omission of Gaggle or its employees, directors, officers, agents, representatives, or subcontractors;
- b. Any infringement of patent, copyright, trademark, trade secret or other proprietary right caused by Gaggle or its employees, directors, officers, agents, representatives, or subcontractors; or
- c. Any violation of California or federal law, regulation or ordinance or violation of this Agreement by Gaggle or its employees, directors, officers, agents, representatives, or subcontractors.

Notwithstanding the foregoing, Gaggle shall have no obligation under this section with respect to any Loss that is caused solely by the active

negligence or willful misconduct of Making Waves Academy and is not contributed to by any act or omission (including any failure to perform any duty imposed by law) by Gaggle, its subcontractors or either's agent or employee.

Notwithstanding any other provision of the Gaggle Services Terms and Conditions, Making Waves Academy shall indemnify and hold harmless Gaggle, its Board members, officers, employees, authorized volunteers and agents from, and if requested, shall defend them, against all liabilities, obligations, losses, damages, judgments, claims, penalties, fines, costs or expenses (including legal fees, attorney's fees and costs and costs of investigation) (collectively "Losses") caused solely by the active negligence or willful misconduct of Making Waves Academy for:

- a. Injury or death of any individual, or the loss, damage or destruction of any real or personal property caused, directly or indirectly, by any act or omission of Making Waves Academy or its employees, directors, officers, agents, representatives, or subcontractors;
- b. Any infringement of patent, copyright, trademark, trade secret or other proprietary right caused by Making Waves Academy or its employees, directors, officers, agents, representatives, or subcontractors; or
- c. Any violation of California or federal law, regulation or ordinance or violation of this Agreement by Making Waves Academy or its employees, directors, officers, agents, representatives, or subcontractors.

Notwithstanding the foregoing, Making Waves Academy shall have no obligation under this section with respect to any Loss that is caused solely by the active negligence or willful misconduct of Gaggle and is not contributed to by any act or omission (including any failure to perform any duty imposed by law) by Making Waves Academy, its subcontractors or either's agent or employee.

The indemnification obligations set forth above shall survive termination of the Customer Contract or Subscription Agreement between the parties.

Section 20 ("Choice of Law") of the Gaggle Services Terms and Conditions is hereby amended to read:

This Agreement is made in and shall be interpreted and governed in all respects in accordance with the laws of the State of California without giving effect to any choice of law or conflict of law rules or provisions.

Section 23 ("Compliance") is hereby added to the Gaggle Services Terms and Conditions and reads:

Customer and Gaggle agree to comply with all applicable laws, regulations and ordinances including but not limited to the Children's Online Privacy Protection Act (COPPA), the Student Online Personal Information Protection Act (SOPIPA), the Family

Educational Rights And Privacy (FERPA), and California Education Code section 49073.1.

Section 7 (“Termination”) of the Gaggle Service Level Agreement is hereby amended to read:

Either party may terminate the Services under this SLA at any time by providing thirty-day (30) written notice of the intent to terminate. Gaggle may also terminate or suspend any and all Services immediately, without prior notice or liability, if Customer breaches any conditions set forth in this SLA or in the Terms & Conditions the Customer accepted by clicking the Accept button prior to accessing Gaggle Services. Gaggle can, at any time, modify or discontinue any of its Services without liability to any user or third party. Gaggle shall not discontinue any of the Services it provides to Customer pursuant to a contract or Subscription Agreement with Customer without the prior written and signed consent of an authorized representative of Customer.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed by their authorized representatives, effective as of the date first set forth above.

**Making Waves Academy
4123 Lakeside Drive
Richmond, CA 94806**

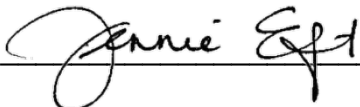
By: _____

Name: _____

Title: _____

Date: _____

**Gaggle
PO Box 1352
Bloomington, IL 61702**

By:  _____

Name: Jennie Eft

Title: Director of Sales Operations

Date: 5/13/2020