

Addendum to Sales Contract for Compliance with California Education Code § 49073.1

This Addendum is entered into between IXL Learning (“Service Provider”) and Making Waves Academy (“LEA”) (collectively referred to as the “Parties”) on May 7, 2021 (“Effective Date”).

WHEREAS, the LEA and the Service Provider entered into the agreement for technology services titled Sales Contract (“Technology Services Agreement”) with an invoice date of June 30, 2020 and a renewal subscription duration of July 1, 2021-July 1, 2022.

WHEREAS, the LEA is a California public entity subject to all state and federal laws governing education, including but not limited to the California Education Code and the Family Educational Rights and Privacy Act (“FERPA”);

WHEREAS, California Education Code section 49073.1 requires, in part, that any agreement entered into, renewed or amended after January 1, 2015 between a California local education agency including school districts, county offices of education, and charter schools and a third-party service provider must include certain terms; and

WHEREAS, the LEA and the Service Provider desire to have the Technology Services Agreement and the services provided comply with California Education Code section 49073.1.

NOW, THEREFORE, the Parties agree as follows:

1. The terms and conditions of the Technology Services Agreement are incorporated herein by reference.
2. The term of this Addendum shall remain in full force and effect during the entire period in which the Technology Services Agreement remains in effect and shall expire on the termination date stated in the Technology Services Agreement.
3. Pupil records obtained by Service Provider from LEA continue to be the property of and under the control of the LEA. Pupil records include any information directly related to a pupil that is maintained by the LEA or acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other LEA employees or contractors. Pupil records does not include de-identified information (information that cannot be used to identify an individual pupil) used by the third party: (1) to improve educational products for adaptive learning purposes and for customized pupil learning; (2) to demonstrate the effectiveness of the Service Provider’s products in the marketing of those products; or (3) for the development and improvement of educational sites, services, or applications.

Pupils may retain possession and control of their own pupil-generated content by: Submit a written request to the LEA. After receiving written authorization from the LEA, Service Provider will provide the option to transfer student account data into a family account (to be paid for by the family separately).

4. A pupil may transfer pupil-generated content to a personal account by: Submit

a written request to the LEA. After receiving written authorization from the LEA, Service Provider will provide the option to transfer student account data into a family account (to be paid for by the family separately).

5. Parents, legal guardians, or eligible pupils may review personally identifiable information in the pupil's records and correct erroneous information by: Submit a written request to the LEA. LEA and Service Provider will consider what personally identifiable information is available other than what is already accessible through the student's account. Service Provider will provide and/or correct personally identifiable information upon written request from LEA to do so, to the extent reasonably feasible.

6. Service Provider shall take actions to ensure the security and confidentiality of pupil records, including but not limited to designating and training responsible individuals on ensuring the security and confidentiality of pupil records, by: Service Provider uses various measures to maintain the security and confidentiality of pupil records including the use of individual user accounts, access controls, auditing and logging, and encryption.

7. In the event of an unauthorized disclosure of a pupil's records, Service Provider shall notify an affected parent, legal guardian, or eligible pupil pursuant by: Service Provider will notify the LEA in writing. To the extent that further notification is required by law, Service Provider will coordinate with LEA in good faith on a mutually acceptable notification procedure.

8. Service Provider shall not use any information in a pupil record for any purpose other than those required or specifically permitted by the Technology Services Agreement.

9. Service Provider certifies that a pupil's records shall not be retained or available to the Service Provider after termination or upon completion of the terms of the Technology Services Agreement, except for a case where a pupil chooses to establish or maintain an account with Service Provider for the purpose of storing pupil-generated content, either by retaining possession and control of their own pupil-generated content, or by transferring pupil-generated content to a personal account. Such certification will be enforced by: The Service Provider will, within 30 days of receipt of a written request from LEA, provide written notice that pupil records have been destroyed and/or de-identified.

10. LEA agrees to work with Service Provider to ensure compliance with FERPA and the Parties will ensure compliance by: Service Provider will treat pupil records as confidential information and will not disseminate pupil records to third parties unless needed to fulfill Service Provider's rights and obligations under this addendum or the Technology Services Agreement; in which case disclosure will be subject to an obligation of confidentiality. Service Provider may also disseminate pupil records if required or permitted by law or court order.

11. Service Provider shall not use personally identifiable information in pupil records to engage in targeted advertising.

IN WITNESS WHEREOF, parties execute this Agreement on the dates set forth below.

LEA Signature: _____

Date: _____

Service Provider Signature: _____

Date: _____