

FOLLOW ALL PROCEDURES ON BACK OF THIS FORM

Contract # 240154
Number Assigned by Purchasing Dept.



CONTRACT REVIEW

BOARD MEETING DATE:
4/4/2024
WHEN BOARD APPROVAL IS REQUIRED DO NOT PLACE ITEM ON AGENDA UNTIL REVIEW IS COMPLETED
 Must Have Board Approval over \$100,000.00

Date Submitted: 3/28/2024

Name of Contract Initiator: B. Staefe for T. Pickett Telephone #: 366-6918

School/Dept Submitting Contract: K-12 Academic Cost Center # 9007

Vendor Name: Imagine Learning LLC

Contract Title: Edgenuity

Contract Type: New Renewal Amendment Extension Previous Year Contract # 180364 / 210089

Contract Term: 5/1/2024 - 4/30/2027 Renewal Option(s):

Contract Cost: \$105,325 each year (May 2024, 2025, 2026) for a total of \$315,975.00

BUDGETED FUNDS – SEND CONTRACT PACKAGE DIRECTLY TO PURCHASING DEPT
Funding Source: Budget Line # 100.5100369.9007.1110.0000.000
Funding Source: Budget Line # _____

NO COST MASTER (COUNTY WIDE) CONTRACT - SEND CONTRACT PACKAGE DIRECTLY TO PURCHASING DEPT

INTERNAL ACCOUNT - IF FUNDED FROM SCHOOL IA FUNDS – SEND CONTRACT PACKAGE DIRECTLY TO SBAO

REQUIRED DOCUMENTS FOR CONTRACT REVIEW PACKAGE (when applicable):

____ Completed Contract Review Form

____ SBAO Template Contract or other Contract (NOT SIGNED by District / School)

____ SIGNED Addendum A (if not an SBAO Template Contract) - **When using the Addendum A, this Statement MUST BE included in the body of the Contract: "The terms and conditions of Addendum A are hereby incorporated into this Agreement and the same shall govern and prevail over any conflicting terms and/or conditions herein stated."**

____ Certificate of Insurance (COI) for General Liability & Workers' Compensation that meet these requirements:
COI must list the School Board of Clay County, Florida as an Additional Insured and Certificate Holder. Insurer must be rated as A- or better.
General Liability = \$1,000,000 Each Occurrence & \$2,000,000 General Aggregate.
Auto Liability = \$1,000,000 Combined Single Limit (\$5,000,000 for Charter Buses).
Workers' Compensation = \$100,000 Minimum
[If exempt from Workers' Compensation Insurance, vendor/contractor must sign a Release and Hold Harmless Form. If not exempt, vendor/contractor must provide Workers' Compensation coverage].

____ State of Florida Workers Comp Exemption (<https://apps.fldfs.com/bocexempt/>) (If Applicable)

____ Release and Hold Harmless (If Applicable)

RECEIVED
By Bertha Staefe at 3:17 pm, Mar 28, 2024

****AREA BELOW FOR DISTRICT PERSONNEL ONLY ****

CONTRACT REVIEWED BY:	COMMENTS BELOW BY REVIEWING DEPARTMENT
Purchasing Department	<u>Software/Copyright 6A-1.012(11b)</u>
Review Date: REVIEWED By Bertha Staefe at 3:17 pm, Mar 28, 2024	<u>SBCC Representative needs to fill in page 5</u> <u>Vendor is sending an updated COI & New SBCC Data Share Agreement – BFS – Received</u>
School Board Attorney JPS	<u>Vendor's changes to ICA were approved in their last contract 240058</u>
Review Date 4/1/24	<u>See Notes from Purchasing above. Reviewed and Approved.</u>
Other Dept. as Necessary	_____
Review Date	_____

PENDING STATUS: YES NO **IF YES, HIGHLIGHTED COMMENTS ABOVE MUST BE CORRECTED BY INITIATOR**

FINAL STATUS **APPROVED**
By Bertha Staefe at 3:39 pm, Apr 01, 2024



INDEPENDENT CONTRACTOR SERVICES AGREEMENT

This CONTRACTOR Services Agreement (“Agreement”) is made as of the effective date set forth below, by and between the SCHOOL BOARD OF CLAY COUNTY, Florida (hereinafter referred to as “SBCC”), a body corporate pursuant to s. 1001.40, Florida Statute, whose principal place of business is 900 Walnut Street, Green Cove Springs, Florida 32043 and **Imagine Learning LLC** (hereinafter referred to as “CONTRACTOR”), whose principal place of business is 8860 E Chaparral Rd., Ste 100, Scottsdale, AZ 85250.

WHEREAS, the SBCC is engaged in the activity of providing educational opportunities to children; and

WHEREAS, CONTRACTOR has experience, skill, and expertise in delivering the services and/or products described in this Agreement; and

WHEREAS, the SBCC is interested in procuring the services and/or products of CONTRACTOR, as best fits the needs of the school district as determined by the SBCC; and

WHEREAS, CONTRACTOR desires to provide their services and/or products to the SBCC School/Department,

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. The Company, Vendor, Agency, or Consultant, of Contract for Goods and Services, hereafter collectively and individually referred to as the “CONTRACTOR”.
2. CONTRACTOR represents that it is an independent contractor and that it requires that the SBCC treat it as such. CONTRACTOR agrees:
 - a. That it has no rights to any benefits extended by the SBCC to its employees [including without limitation, sick leave, vacation time, insurance coverage, etc.];
 - b. That it will not take a position contrary to their status as an independent contractor, and agrees to accept the responsibilities placed on independent contractors by federal and state law [accordingly, the SBCC will not make the deductions or contributions that an employer may be required to make with respect to its employees, and the undersigned will be responsible for all federal and state tax and fund obligations, including without limitation, income tax, Social Security, unemployment compensation, etc.];
 - c. CONTRACTOR agrees, as an independent contractor and not an employee of the SBCC, it is responsible for providing their own Worker’s Compensation Insurance and social security/self-employment contributions.
3. CONTRACTOR acknowledges and accepts responsibility for all risks of injury and loss associated with the performance of this Agreement. In addition to any other statutory or common law obligation to indemnify and defend the SBCC, CONTRACTOR shall indemnify, defend, and hold harmless the SBCC, its officers, and employees from any **third-party** claim, loss, damage, penalty, or liability arising from the negligent acts, omissions, misfeasance, malfeasance, or intentionally wrongful conduct of CONTRACTOR, its employees, or agents relating to the performance of duties imposed upon CONTRACTOR by this Agreement. Such indemnity shall not be limited by benefits payable by or for CONTRACTOR under worker’s compensation, disability, or any other employee benefits or insurance programs or policies. Contractor shall timely provide to the SBCC written notice of any claim, complaint, or demand asserted against CONTRACTOR related to the performance of this Agreement. CONTRACTOR’s obligations under this section shall survive the termination of this Agreement.
4. CONTRACTOR agrees to be bound by, and at its own expense comply with, all federal, state, and local laws, ordinances, and regulations applicable to the services. CONTRACTOR shall review and comply with the confidentiality requirements of federal and state law and the SBCC policy regarding access to and use of records.

5. Reservation of Sovereign Immunity: No provision or language in the underlying contract shall be construed or interpreted to increase the scope or dollar limit of the SBCC's liability beyond that which is set forth in Section 768.28 of the Florida Statutes. Nor shall any such language be construed or interpreted to waive the SBCC's sovereign immunity from suit, or to require the SBCC to indemnify CONTRACTOR or any other person, corporation or legal entity of any kind or nature whatsoever for injury or loss resulting from any acts or omissions other than those which arise from the actionable negligence of the SBCC. The SBCC expressly reserves all other protections and privileges related to its sovereign immunity.
6. CONTRACTOR will perform the services in a thorough, efficient, and professional manner, promptly and with due diligence and care, and in accordance with the best practices of the profession, utilizing qualified and suitable personnel, equipment and materials. CONTRACTOR warrants and represents to the SBCC that it possesses the expertise, capability, equipment and personnel to properly perform the services and that it is properly and legally licensed to perform the services. CONTRACTOR acknowledges that the SBCC is relying on the warranties and representations made by CONTRACTOR.
7. Method of Payment: Services and/or Products satisfactorily received shall be compensated in accordance with Attachment A and the following terms:
 - a. Procurement is performed in accordance with applicable law, State Board of Education Rules, Clay County School Board Policy and other applicable rules and regulations which govern. CONTRACTOR shall be paid in accordance with the Local Government Prompt Payment Act (218.70, et seq., Florida Statutes) upon submission of detailed invoices to the appropriate location listed on the District Purchase Order and/or the School Internal Account Purchase Order, and only after delivery and acceptance of the services and/or products provided.
 - b. Services and/or Products, as authorized by and listed in Attachment A, shall be compensated by Hour Rate (cost per hour) / Fixed Fee (*includes direct and indirect costs*) / Flat Rate (*cost for scope of work*) / etc.
 - c. Direct reimbursement for travel expenses, as authorized by and listed in Attachment A, shall be made in accordance with the requirements and rates found at F.S. 112.061 and any applicable SBCC policies.
 - d. Incurrence of other direct expenses, if any, must be pre-approved in writing by the SBCC.
 - e. Unless otherwise required by law, the SBCC's payment obligations (if any) arising from the underlying Agreement are contingent upon an annual appropriation by the School Board and the availability of funds to pay for the contracted services and/or products provided. If such funds are not appropriated for the underlying Agreement and results in its termination, such conditions/events shall not constitute a default by the SBCC.
8. The SBCC and CONTRACTOR have mutual rights to terminate this Agreement with ~~or without~~ cause and without penalty or further payment, at any time upon thirty (30) days written notice to the other party. However, if it is determined by the SBCC that the work is not being performed as agreed herein, CONTRACTOR shall be deemed to be in default, and the SBCC reserves the right to cancel this Agreement immediately.
9. Force Majeure: Neither party to this Agreement shall be liable for delays or failures in performance under this Agreement (other than obligations relating to payment, confidentiality, and protection of ownership and intellectual property rights) resulting from acts or events beyond the reasonable control of such party (a "Force Majeure Event"), including acts of war, terrorism, acts of God, earthquake, flood, embargo, riot, sabotage, labor dispute, wide spread outbreak of disease or pandemic, governmental act, failure of the internet, power failure, or energy, utility, or telecommunications interruptions, provided that the delayed party: (i) gives the other party prompt notice of such cause; and (ii) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. In the event that a Force Majeure Event lasts for more than 90 days, and the party experiencing the initial delay cannot correct its failure or delay in performance during that period of time, despite using its reasonable commercial efforts to do so, the other party may terminate the affected portions of this Agreement.
10. This Agreement shall not be modified or amended except in writing, duly agreed to and executed by the parties.
11. CONTRACTOR shall not assign this Agreement in whole or in part, without the express written consent of the SBCC Purchasing Department.
12. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida and venue shall be in Clay County, Florida.
13. No other representations or promises shall be binding on the parties hereto except those representations or promises contained herein.

14. In the event that any part, term, or provision of this Agreement is, in a court of competent jurisdiction, found to be illegal or unenforceable, the validity of the remaining portions and provisions will not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be so invalid.
15. Should any litigation be commenced in connection with this Agreement, the prevailing party shall be entitled to **seek recovery of** reasonable attorney fees and court costs.
16. The parties hereto represent that they have reviewed this Agreement and have sought legal advice concerning the legal significance and ramifications of this Agreement.
17. CONTRACTOR shall retain records associated with the services and/or products provided herein for a period of three years following final payment. CONTRACTOR shall, with reasonable notice, provide the SBCC access to these records during the above retention period.
18. Jessica Lunsford Act: SBCC is required to conduct background screening of CONTRACTOR (including its employees, agents, and sub-contractors) (go to [Clay County District Schools website](#) for fingerprinting procedures). CONTRACTOR represents and warrants to the SBCC that CONTRACTOR is familiar with Sections 1012.32, 1012.321, 1012.465, 1012.467, and 1012.468 of the Florida Statutes regarding background investigations. CONTRACTOR covenants to comply with all requirements of the above-cited statutes at CONTRACTOR's sole expense and shall provide the SBCC proof of such compliance upon request.
Certification: By executing this Agreement, CONTRACTOR swears and affirms under penalty of perjury that all of its employees, agents, and subcontractors will comply with these procedures, the requirements of the Jessica Lunsford Act, SBCC's finger printing procedures, and the laws of the State of Florida. Failure to comply with these procedures, the Act, SBCC's finger printing procedures, and the law of the State of Florida shall constitute a material breach of the Agreement, and SBCC may avail itself of all remedies pursuant to law. CONTRACTOR agrees to indemnify and hold harmless SBCC, its officers, employees, and agents, from and against any and all claims or causes of action, including without limitation those for personal injury, death, property damages, and attorney fees, arising out of or relating to CONTRACTOR's failure to comply with any of the above.
19. E-Verify: CONTRACTOR named herein, and its subcontractors, are required to register with and use the U.S. Department of Homeland Security's (DHS) E-Verify system to verify the work authorization status of all newly hired employees. By executing this Agreement, the CONTRACTOR certifies that it, and any sub-contractors with which it contracts, are registered with, and use, the E-Verify system for all newly hired employees, and acknowledges that it must obtain an affidavit from its subcontractors in accordance with Section 448.095(2) (b) Fla. Stat. that the subcontractor does not employ, contract with or subcontract with any unauthorized alien. The CONTRACTOR must maintain a copy of such affidavit for the duration of the Agreement. This section serves as notice to the CONTRACTOR that, pursuant to the terms of Section 448.095(2)(c) 1 and 2, Florida Statutes, the SBCC shall terminate this Agreement if it has a good faith belief that the CONTRACTOR has knowingly violated Section 448.09(1), F.S.. If the SBCC has a good faith belief that the subcontractor, without the knowledge of the CONTRACTOR, has knowingly violated Section 448.09(1) or 448.095(2), F.S., the SBCC shall notify the CONTRACTOR and order the CONTRACTOR to immediately terminate the contract with the subcontractor. If the SBCC terminates an Agreement with a CONTRACTOR pursuant to sec. 448.095(2)(c), F.S., the CONTRACTOR will not be awarded a public contract for at least one year after the date of such termination.
20. The CONTRACTOR certifies that CONTRACTOR is in compliance with the requirements of law regarding equal employment opportunity for all persons without regard to age, race, color, religion, sex, national origin, or disability and is not on the Discriminatory Vendor List pursuant to Florida Statute 287.134.
21. CONTRACTOR shall, at CONTRACTOR's sole expense, procure and maintain during the term of this Agreement, at least the following minimum insurance coverage, which shall not limit the liability of CONTRACTOR:

<u>General Liability Policy:</u>	<u>Auto Liability Policy:</u>	<u>Worker's Compensation Policy:</u>
\$1,000,000.00 per occurrence	\$1,000,000.00 combined single limit	\$100,000
\$2,000,000.00 aggregate	\$5,000,000.00 (if charter or common carrier)	<i>*Exempt, need signed WCAF</i>

**If the CONTRACTOR is exempt from Worker's Compensation insurance obligations, the CONTRACTOR must sign the Worker's Compensation Acknowledgment Form (WCAF) attached hereto as Exhibit #1.*

All policies of insurance shall be rated "A-" or better by the most recently published A.M. Best Rating Guide and shall be subject to the SBCC approval as to form and issuing company. The SBCC shall be named as certificate holder and as an *additional insured* in the comprehensive general (including property damage) liability policy within five (5) days after execution of this Agreement. CONTRACTOR shall furnish the SBCC's Representative copies of insurance certificates evidencing that it maintains at least the insurance coverage required hereunder, and which contain the following or equivalent clause: *"Before any reduction, cancellation, modification or expiration of the insurance policy, thirty (30) days prior written notice thereof shall be given to the SBCC."* CONTRACTOR is NOT authorized to proceed with the services until all the insurance certificates have been received and accepted.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the SBCC, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of CONTRACTOR's obligation to fulfill the insurance requirements herein.

22. CONTRACTOR shall not solicit or accept brokerage or any other fees or remuneration from any provider of the SBCC insurance program.
23. CONTRACTOR recognizes and acknowledges that by virtue of entering into this Agreement and providing services hereunder, CONTRACTOR, its agents, employees, officers, and subcontractors may have access to certain confidential information and processes, including confidential student information, personal health information, financial records, and access to the SBCC networks (hereinafter "Confidential Information"). CONTRACTOR agrees that neither it nor any CONTRACTOR agent, employee officer, or subcontractor will at any time, either during or subsequent to the term of this Agreement, disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by the SBCC in writing, any Confidential Information. In addition, following expiration of said Agreement, CONTRACTOR, its agents, employees, officers, and subcontractors shall either destroy or return to the SBCC all Confidential Information. With 72-hours written notification, the SBCC reserves the right to determine whether or not Confidential Information has been destroyed and such confirmation may include inspecting the CONTRACTOR's facilities and equipment. CONTRACTOR understands and agrees that it is subject to all federal and state laws and SBCC rules relating to the confidentiality of student information. Contractor further agrees to comply with the Family Educational Rights and Privacy Act ("FERPA") 34 C.F.R. § 99. Contractor shall regard all student information as confidential and will not disclose personally-identifiable student records or information to any third party without appropriate legal authorization. Access to SBCC data or networks shall require a SBCC Data-Sharing and Usage Agreement and shall only be authorized by the SBCC IT Department.
24. CONTRACTOR is required to comply with the Florida Public Records Law, Chapter 119, Florida Statutes, in the performance of CONTRACTOR's duties under this Agreement, and will specifically:
 - a. Keep, maintain, and produce upon request and within a reasonable period of time all data created or collected in the performance of its duties under this Agreement ("Agreement Data") which come within the definition of a "public record" under Chapter 119.
 - b. Provide to the SBCC, upon its request and free of charge, a copy of each record which CONTRACTOR seeks to produce in response to a public records request.
 - c. Ensure all Agreement Data considered exempt under Chapter 119 are not disclosed except as authorized by law.
 - d. Upon completion of its obligations under the Agreement, transfer to the SBCC, at no cost, all Agreement Data in CONTRACTOR's possession or otherwise keep and maintain such data/records as required by law. All records transmitted to the SBCC must be provided in a format that is compatible the SBCC's information technology systems.
 - e. The SBCC is authorized to collect, use or release social security numbers (SSN) of CONTRACTOR and their employees for the following purposes, which are noted as either required or authorized by law to be collected. The collection of social security numbers is either specifically authorized by law or imperative for the performance of the District's duties and responsibilities as prescribed by law (Sections 119.071(5)(a)2 and 3, Florida Statutes):
 - a) Criminal history and criminal background checks/Identifiers for processing fingerprints by Department of Law Enforcement, if SSN is available [Required by Fla. Admin. Code 11 C-6.003 and Fla. Stat. § 119.071(5)(a)6]

b) Vendors/Consultants that District reasonably believes would receive a 1099 form if a tax identification number is not provided including for IRS form W-9 [Required by 26 C.F.R. § 31.3406-0, 26 C.F.R. § 301.61091, and Fla. Stat. § 119.071(5)(a)2 and 6]

CONTRACTOR’s failure to comply with the provisions set forth in this section shall constitute a default and material breach of this Agreement, which may result in termination by the SBCC without penalty.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, OR CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTRACTOR SHALL CONTACT THE SBCC’S CUSTODIAN OF PUBLIC RECORDS AT 900 WALNUT STREET, GREEN COVE SPRINGS, FLORIDA 32043, OR AT 904-336-6500, OR AT: PRR@myoneclay.net

25. Government Funding: Funding for this Agreement may be provided in whole or in part by one or more Government funding agencies (Federal, State, Local). As a result, CONTRACTOR shall comply with applicable Laws, Regulations, Executive Orders, and Governmental Agency Rules and Policies included but not limited to Florida Department of Education (DMS, SREF); Florida Statutes Chapter 287, 489; Code of Federal Regulations Titles: 2 – Grants and Agreements (2 C.F.R. §200), Title 7 – Agriculture (NSLP), Title 34 – Education (EDGAR, FERPA), Title 44 – Emergency Management and Assistance (FEMA); U.S. Code Titles: 20, 31, 40, 4.

To the extent that the SBCC is using Government Funds as a source of payment for this Agreement, CONTRACTOR shall execute and deliver to the SBCC the following forms, attached hereto as Exhibit # 2: (a) EDGAR Certification; (b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion; (c) Drug-Free Workplace Certification; (d) Non-Collusion Affidavit; and (e) Disclosure of Potential Conflict of Interest.

In the event of any conflict or inconsistency between the terms and conditions of this Agreement and any terms or conditions set forth in any other document relating to the transactions contemplated by this Agreement, the terms and conditions set forth in this Independent Contractor Services Agreement shall prevail.

SBCC’S Representative with CONTRACTOR is: _____

School/Department Name: _____

Mailing Address: _____

Phone #: _____ Email Address: _____

Accepted and Agreed to:

SCHOOL BOARD OF CLAY COUNTY

CONTRACTOR

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachment A

SCOPE OF SERVICES AND/OR PRODUCTS

1. **Description of Services and/or Products** (If sufficient space is not available on Attachment A, CONTRACTOR may provide information and append it to the Agreement as Attachment A-1, Attachment A-2, etc)

See Attachment A-1 / Price Quote Q-13382

2. **Term:**

The term of this Agreement shall commence on May 1, 2024 and continue until April 30, 2027, unless earlier terminated as set forth in Agreement.

3. **Fee:**

The CONTRACTOR shall provide services and/or products described in Attachment A, at the rate of \$ \$105,325 each year (May 2024, 2025, 2026) for a total of \$315,975.00 (Hour Rate (cost per hour) / Fixed Fee (includes direct and indirect costs) / Flat Rate (cost for scope of work) / etc). The total compensation under this agreement shall not exceed \$ 315,975.00.

Exhibit # 1

WORKERS COMPENSATION ACKNOWLEDGEMENT FORM (WCAF)

The undersigned Contractor/Vendor (“Contractor”) represents and acknowledges that it is an independent contractor and is not provided coverage under any self-insured workers compensation program of the School Board of Clay County, Florida (the “Board” or “District”), any primary workers compensation insurance policy purchased by or on behalf of the District, any excess workers compensation insurance purchased by or on behalf of the District, any risk sharing arrangement, risk sharing pool, or any state reimbursement fund for workers compensation payments made by the District, based on the following understandings and representations by the Contractor:

1. Contractor is not an “Employee” as defined under Chapter 440 of the Florida Statutes. The Parties agree that Chapter 440 describes remedies for employers and employees in place of Florida common law and limits the rights of independent contractors like the undersigned.
2. Contractor maintains a separate business with its own work equipment, material, and accommodations.
3. Contractor has a different federal employer identification number than the District or is a sole proprietor who is not required to obtain a federal employer identification number under state or federal regulations.
4. Contractor receives compensation for services rendered or work performed, and such compensation is paid to a business rather than to an individual.
5. Contractor maintains at least one bank account in the name of the Contractor or associated persons or entities for the purposes of paying business expenses related to the services rendered or work performed for the District.
6. Contractor performs work or is able to perform work for entities other than the District at the Contractor’s election without the necessity of completing an employment application or process.
7. Contractor either provides its own workers compensation coverage or has elected to be exempt from workers compensation coverage.
8. Contractor has provided proof of other insurance, including liability insurance, to the District in the amounts required by the District.
9. Contractor had an opportunity to review and consult with legal counsel regarding this document.
10. Contractor understands that the District is relying upon the truthfulness and accuracy of representations in this acknowledgement as a material basis for the District entering into the underlying agreement(s) with Contractor.

Name of Contractor/Vendor: _____

Signature of Authorized Representative: _____

Printed Name of Authorized Representative: _____

Title of Authorized Representative: _____

Date: _____

Exhibit # 2 (a)

EDGAR CERTIFICATIONS

All purchases involving the expenditure of federal funds must be compliant with the Education Department General Administrative Regulations ("EDGAR"). The following certifications and provisions are required and apply when the School Board of Clay County, Florida ("SBCC" "School Board") expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the District shall contain the procurement provisions of Appendix II to Part 200, as applicable.

REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS APPENDIX II to C.F.R. PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when School Board expends federal funds, School Board reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

Pursuant to Federal Rule (B) above, for all contracts involving Federal funds in excess of \$10,000, School Board reserves the right to terminate the contract (i) for convenience, and/or (ii) for cause by issuing a certified notice to the vendor.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when School Board expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when School Board expends federal funds during the term of an award for all contracts and subgrants for construction or repair, Vendor will be in compliance with all applicable Davis-Bacon Act provisions.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29

EDGAR CERTIFICATIONS (continued)

CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when federal funds are expended by School Board, Vendor certifies that Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award resulting from this procurement process.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by School Board, Vendor certifies that Vendor will be in compliance with all applicable provisions of Federal Rule (F) during the term of an award resulting from this procurement process.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to Federal Rule (G) above, when federal funds are expended by School Board, Vendor certifies that Vendor will be in compliance with all applicable provisions of Federal Rule (G) during the term of an award resulting from this procurement process.

(H) Energy Policy and Conservation Act (2 CFR §910.120, 10 CFR §600.236). Vendor agrees to comply with the mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

Pursuant to Federal Rule (H) above, when federal funds are expended by School Board, Vendor certifies that Vendor will be in compliance with all applicable provisions of Federal Rule (H) during the term of an award resulting from this procurement process.

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (I) above, when federal funds are expended by School Board, Vendor certifies that during the term of an award resulting from this procurement process, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (J) above, Vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The Vendor further certifies that: (1) No Federal appropriated funds have been

EDGAR CERTIFICATIONS (continued)

paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. (2) If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. (3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

RECORDS ACCESS AND RETENTION

Records Access (34 CFR 80.36 (i)(10)): All vendors, contracts and subcontractors shall give access to the SBCC, the appropriate Federal agency, the Comptroller General of the United States, or any of their duly authorized representative to any books, documents, papers, and records of the vendor which are directly pertinent to this specific bid/contract for the purpose of making audit, examination, excerpts and transcriptions.

Records Retention (2 C.F.R. § 200.333): Financial records, supporting documents, statistical records and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three (3) years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or passthrough entity in the case of a subrecipient.

RECOVERED MATERIALS

Recovered Materials (2 CFR §200.322): Contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Vendor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Vendor's Name: _____

Signature of Authorized Representative: _____

Print Name of Authorized Representative: _____

Exhibit # 2 (b)

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-Procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Instructions for Certification:

1. The prospective lower tier participant certifies, by submission of this proposal that neither it nor its principals are:
 - a) presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;
 - b) have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in performing a public (federal, state or local) transaction or contract under a public transaction; or for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
 - c) are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of the offenses enumerated in this certification; or
 - d) have not within a three-year period preceding this application had one or more public transaction (federal, state or local) terminated for cause or default.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name of Vendor: _____

Printed Name

Title of Authorized Representative

Signature: _____

Date: _____

Exhibit # 2 (c)

DRUG-FREE WORKPLACE CERTIFICATION

Preference shall be given to vendors/contractors certifying their compliance with a drug-free workplace in accordance with Section 287.087, Florida Stat. as follows:

Preference to businesses with drug-free workplace programs - Whenever two or more bids, proposals, or replies that are equal with respect to price, quality, and service, are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid, proposal, or reply received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tied bids, proposal, or replies shall be followed if none of the tied vendor has a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions what shall be taken against employee for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee shall abide by the terms of the statement and shall notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

CONTRACTOR NAME: _____

AUTHORIZED CONTRACTOR REPRESENTATIVE SIGNATURE:

(Printed Name)

(Signature)

(Title)

(Date)

Exhibit # 2 (d)

NON-COLLUSION AFFIDAVIT

State of FLORIDA)
County of CLAY)

My name is (INSERT NAME _____). I hereby attest that I am authorized to execute this affidavit on behalf of my firm, its owners, directors, and officers. I have personal knowledge of the price(s), guarantees and the total financial commitment represented in the firm's offer and/or contract.

(1) The firm's prices and amounts offered have been arrived at independently and without consultation, communication or agreement with any other contractor or respondent.

(2) Neither the final nor approximate prices or amounts offered have been disclosed to any other firm or person who is a respondent or potential respondent, nor were they disclosed prior to opening of offers.

(3) The offer from my firm is made in good faith and no attempt has been made to induce any firm or person to refrain from submitting an offer, or to submit an offer higher than our offer, or to submit any intentionally high or noncompetitive offer or other form of complementary offer.

(4) (INSERT NAME OF COMPANY _____) its affiliates, subsidiaries, officers, directors, employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding, proposing or offering on any public contract, except as follows:

I attest that (INSERT NAME OF COMPANY _____) understands and acknowledges that the above representations are material and important, and will be relied on by The School Board of Clay County, Florida, in awarding the contract for which this offer is submitted. I understand and my firm understands that any misstatement of material representations herein shall be treated as fraudulent or otherwise intentional concealment of the true facts relating to submission of offers for this contract.

CONTRACTOR NAME: _____

AUTHORIZED CONTACTOR REPRESENTATIVE SIGNATURE:

(Printed Name)

(Signature)

(Title)

(Date)

Exhibit # 2 (e)

**DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST AND
CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP**

Section 112.313 (3) and (7), Florida Statutes, sets forth restrictions on the ability of SBCC employees acting in a private capacity to rent, lease, or sell any realty, goods or services to SBCC. It also places restrictions on SBCC employees concerning outside employment or contractual relationships with any business entity which is doing business with SBCC.

Contractor must disclose the names of any employees who are employed by Contractor who are also an employees of SBCC. Persons identified below may have obligations and restrictions applicable to them under Chapter 112, Florida Statutes.

Name of Contractor's Employee	SBCC Title or Position of Contractor's Employee	SBCC Department/School of Contractor's Employee
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check one of the following and sign:

I hereby affirm that there are no known persons employed by Contractor who are also an employee of SBCC.

I hereby affirm that all known persons who are employed by Contractor who are also an employee of SBCC have been identified above.

Signature

Company Name



Attachment A-1

Price Quote

8860 E. Chaparral Rd
 Suite 100
 Scottsdale, AZ 85250
 877-725-4257

Date 2/26/2024
Quote No. Q-13382
Acct. No. 12217184
Total 315,975.00
Pricing Expires 07/23/2024

SBCC Accounts Payable Department
 814 Walnut Street
 Green Cove Springs FL 32043
 United States

3 Year Agreement Total with Realized Discount is \$315,975. Payable each year of the agreement by May 31st of 2024, 2025 & 2026 via invoice in the amount of \$105,325.

Payment Term	Contract Start	Contract End
Net 30	5/1/2024	4/30/2027

Site	Description	End Date	Qty
School District of Clay County	Edgenuity 6-12 Comprehensive Concurrent User	04/30/2027	20
	Edgenuity VT All (Except WorkKeys) Concurrent User	04/30/2027	150
	Edgenuity 9-12 Credit Recovery Concurrent User	04/30/2027	125
	Edgenuity 6-8 Comprehensive Concurrent User	04/30/2027	25

Subtotal 315,975.00
Tax Total 0.00
Total 315,975.00

Imagine Learning will audit enrollment count throughout the year. If more enrollments are found to be in use than purchased, Imagine Learning will invoice the customer for the additional usage.

This quote is subject to Imagine Learning LLC Standard Terms and Conditions . These Terms and Conditions are available at www.imaginelearning.com/standard-terms-and-conditions, may change without notice and are incorporated by this reference. By signing this quote or by submitting a purchase order or form purchasing document, Customer explicitly agrees to these Terms and Conditions resulting in a legally binding agreement. To the fullest extent permitted under applicable law, all pricing information contained in this quote is confidential, and may not be shared with third parties without Imagine Learning's written consent.

SBCC Accounts Payable

Department

Signature: _____
 Print Name: _____
 Title: _____
 Date: _____

Imagine Learning Representative

Greg Guy
 Account Executive -
 greg.guy@imaginelearning.com
 imaginethefutureoflearning.com

Not valid unless accompanied by a purchase order. Please specify a shipping address if applicable. Please e-mail this quote, the purchase order and order documentation to AR@imaginelearning.com or fax to 480-423-0213.



**IMAGINE LEARNING LLC
TERMS AND CONDITIONS OF COMPANY SERVICES**

This "Agreement" (i.e., these Terms and Conditions and the Price Quote for Services into which these Terms and Conditions are incorporated) is made and entered into as of the date of last signature below ("Effective Date") between Imagine Learning LLC, its affiliates and subsidiaries ("Company") and Customer. In consideration of the mutual promises contained herein, the parties hereby agree to the following:

1.1 "Access Protocols" means the passwords, access codes, technical specifications, connectivity standards or protocols, or other relevant procedures, as may be necessary to allow Customer to access the Services.

1.2 "Authorized User" means any third party who is authorized by Customer to access the Services pursuant to Customer's rights under this Agreement, including any instructors, administrators, other employees, contractors, students authorized by Customer, parents, family members, or other adults associated with a student or parents authorized by Customer.

1.3 "Confidential Information" means all non-public, proprietary or confidential information relating to a "Disclosing Party" that is disclosed or otherwise supplied in confidence to the "Receiving Party" under this Agreement. Company's Confidential Information includes (without limitation) the Services, its user interface design and layout, and pricing information. Confidential Information does not include any aggregated data or De-Identified Data covered by Section 9.4, or any other information that the Receiving Party can establish: (a) was known to the Receiving Party prior to receiving the same from the Disclosing Party, free of any restrictions; (b) is independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information; (c) is acquired by the Receiving Party from another source without restriction as to use or disclosure; or (d) is or becomes part of the public domain through no fault or action of the Receiving Party.

1.4 "Confidential Student Information" means information that personally identifies a student who is enrolled or was previously enrolled at the Customer's institution. This term includes the student's name, the name of the student's parents or family members, the student's (or student's family's) address, telephone number, email address, date of birth, place of birth, mother's maiden name, grades, financial information, social security number (or other governmental identification number), biometric information, and other information that alone or in combination would reasonably allow a person or entity to identify the student with reasonable certainty. Confidential Student Information does not include any information regarding persons who do not enroll at the Customer's institution.

1.5 "Customer" means the school or district who is identified in the signature block below or the applicable Price Quote for Services.

1.6 "Customer Content" means any content and information submitted via or in connection with the Services by or on behalf of Customer, an Authorized User, or any other end user of the Services. Customer Content includes student information and records which remain the property of the Customer.

1.7 "De-Identified Data" means any data, including data derived from Confidential Information (and Confidential Student Information) that has had all direct and indirect personal identifiers removed. This includes the removal of any names, identification numbers, dates of birth, address, email address, and telephone number. De-Identified Data does not include any data that alone or in combination would reasonably allow a person or entity to identify a student with reasonable certainty.

1.8 "Documentation" means the technical materials provided by Company to Customer in hard copy or electronic form describing the use and operation of the Services.



Terms and Conditions of Company Services

1.9 “Instructional Services” means services provided by Company, including student access to teachers and coaches, the development and implementation of policies and procedures for purposes of improving student outcomes, and other services as stated in the applicable Price Quote for Services. Instructional Services are also subject to the additional terms contained in the attached Addendum.

1.10 “Price Quote for Services” means the order form signed by Customer which references these Terms and Conditions and details the services to be provided to the Customer under this Agreement.

1.11 “Professional Development” means all implementation planning, program design, administrative and instructional training, consulting and coaching for education professionals provided by Company as described in the applicable Price Quote for Services. Professional Development services are subject to the additional terms contained in the attached Addendum.

1.12 “Services” means the services ordered by Customer through the Price Quote for Services and includes the products and services which may include Company courseware, audio, video and other content curriculum, and/or Documentation and software including applets and animations. Services may include Professional Development and/or Instructional Services. Customers’ access to any Professional Development or Instructional Services will expire at the end of the Term set forth in the applicable Quote or if the Service is terminated for any reason.

1.13 “Supported Environment” means the minimum hardware, software, and connectivity configuration specified from time to time by Company as required for use of the Services. The current requirements (if any) are described in the technical requirements which may be found on Company’s website.

2. PROVISION OF SERVICES

2.1 Access. Subject to Customer’s payment of the fees outlined in the Price Quote for Services and compliance with the terms of this Agreement, Company will provide Customer with access to the Services. Promptly following the Effective Date, Company shall provide to Customer the necessary security protocols and policies, network links or connections and Access Protocols to allow Customer and its Authorized Users to access the Services in accordance with the Price Quote for Services (or this Agreement).

2.2 Support Services. Company will provide Customer with the support services described at <http://help.imaginelearning.com/hc/en-us>.

2.3 Hosting. Company shall, at its own expense, provide for the hosting of the Services, provided that nothing herein shall be construed to require Company to provide for, or bear any responsibility with respect to any telecommunications or computer network hardware required by Customer, any Authorized User or any other user to provide access from the Internet to the Services.

3. INTELLECTUAL PROPERTY

3.1 License Grant. Subject to the terms and conditions of this Agreement, Company grants to Customer a non-exclusive, non-sublicensable, non-transferable license during the Term, solely for Customer’s internal educational and training purposes and in accordance with this Agreement. This Agreement permits only Customer and Customer’s Authorized Users to access and use the Services detailed on the Price Quote for Services in accordance with the Documentation. Licenses are available to access Services throughout the Term by Authorized Users not to exceed specific quantities stated on Price Quote for Services. License and Service types are listed below. Only those License and Service types listed on the Price Quote for Services are applicable to this Agreement.

- a) **Concurrent License** - provides access to Services throughout the Term by all Authorized Users based on the number of simultaneous licenses purchased. Total number of users accessing product simultaneously cannot exceed total quantity of licenses purchased.



Terms and Conditions of Company Services

- b) **Reusable License** - provides access to Services throughout the Term by all Authorized Users based on the number of semester course enrollments purchased. Once a course enrollment is disabled or completed, the enrollment license can be reused for that student or another student throughout the contract period.
- c) **Single User** - available to a single user identified by name and designated as the sole student user of the specific license throughout the Term. Licenses cannot be transferred to another user.
- d) **Site License** - provides access to Services throughout the Term by all Authorized Users located at the specific physical site identified on the Price Quote. Must be a traditional brick and mortar educational institution that provides educational services to students at a common physical location. Not available for virtual schools.
- e) **Virtual School** - Customer that is (a) a private school where students do not regularly meet physically for learning but where there is a teacher of record available to students enrolled at the institution and much of the learning takes place over the internet with regular assistance or guidance from the teacher of record or (b) a private tutoring provider that makes available personal attention to each student enrolled in a program by faculty or tutoring provider and such services are the primary purpose of enrollment by students; or (c) a public program implemented by a school district where students do not regularly meet physically for learning but where there is a teacher of record available to students enrolled at the institution and much of the learning takes place over the Internet with regular assistance or guidance from the teacher of record; and (d) with respect to (a), (b), and (c), a Virtual School is not a school that sells licenses or access to educational software on a standalone basis or sells licenses or access to educational software to students not actively enrolled in and participating in learning services provided by the private school or tutoring provider.

3.2 Restrictions. Customer agrees that it will not, nor will Customer cause or permit any Authorized User or other party to: (a) allow any third party to access the Services or Documentation, except as expressly allowed herein; (b) modify, adapt, alter or translate the Services or Documentation; (c) sublicense, lease, rent, sell, resell, loan, distribute, transfer or otherwise allow the use of the Services or Documentation for the benefit of any third party; (d) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the Services, except as permitted by law; (e) create derivative works based on the Services or Documentation; (f) use the Services to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party rights; (g) interfere with or disrupt the integrity or performance of the Services; or (g) access the Services to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.

3.3 Ownership. Except for the licenses granted by Company under this Agreement, as between Company and Customer, Company owns all right, title and interest (including, but not limited to, all copyright, patent, trademark and trade secret rights) in and to the Services and Documentation.

3.4 Open Source Software. Certain items of software used in the Services are subject to "open source" or "free software" licenses ("Open Source Software"). Some of the Open Source Software is owned by third parties. The Open Source Software is not subject to the terms and conditions of Sections 3.1, 3.2, or 10. Instead, each item of Open Source Software is licensed under the terms of the end-user license that accompanies such Open Source Software. Nothing in this Agreement limits Customer's rights under, or grants Customer rights that supersede, the terms and conditions of any applicable end user license for the Open Source Software. If and to the extent required by any license for particular Open Source Software, Company makes such Open Source Software and Company modifications to that Open Source Software, available by written request at the notice address specified on the Price Quote for Services.

4. FEES. Company shall invoice Customer for fees on the schedule set forth on the Price Quote for Services ("Fees") and the amounts set forth in such invoices shall be due from Customer net thirty (30)



Terms and Conditions of Company Services

days of receipt. Non-payment or late payment of undisputed fees is a material breach of this Agreement. Company may terminate the Agreement and/or terminate or suspend Customer's access to Services within ten (10) days after Customer receipt of a notice of non-payment of amounts owed under that Price Quote for Services. Company may change the amount of the Fees for any upcoming Renewal Term, provided that Company provides Customer with written notice of such change at least sixty (60) days prior to the first day of such Renewal Term. All taxes and other governmental charges (except for income taxes), if any, imposed on Customer payments hereunder shall be deemed to be in addition to the Fees charged, and borne solely by Customer except to the extent that Customer provides Company with a valid tax exemption certificate authorized by the appropriate taxing authority.

5. FUNDING-OUT CLAUSE. If Customer is a governmental entity receiving federal, state or local funds, Customer's payment obligation may be conditioned upon the availability of funds that are appropriated or allocated by the applicable government agency. If funds are not allocated, Customer may terminate this Agreement at the end of the period for which funds are available. Customer must notify Company in writing at least thirty (30) calendar days before termination. Upon termination, Company will be entitled to a pro-rata portion of the fees for Service performed up to the date of termination.

6. CUSTOMER CONTENT AND RESPONSIBILITIES

6.1 License; Ownership. Customer hereby grants Company a non-exclusive, worldwide, royalty-free, fully paid and transferable license (a) to use the Customer Content as necessary solely or the purposes of providing the Services under this Agreement; and (b) to use Customer's trademarks, service marks, and logos as required to provide the Services (but not for use with an audience beyond that of Authorized Users). As between the parties, Customer owns all right, title and interest in the Customer Content.

6.2 Customer Warranty. Customer represents and warrants that (a) prior to using the Services in connection with any Authorized User, Customer shall have obtained any necessary consent to contact such Authorized User via the Services in such form as required to comply with applicable law; (b) that its use of the Services will otherwise comply with all applicable laws; and (c) the Customer Content shall not (i) infringe any copyright, trademark, or patent right; (ii) misappropriate any trade secret; (iii) be deceptive, libelous, obscene, pornographic or unlawful; (iv) contain any viruses, worms or other malicious computer programming codes intended to damage Company's system or data; or (v) otherwise violate any privacy or other right of any third party.

6.3 Authorized User Access. Customer may permit any Authorized Users to access and use the features and functions of the Services as contemplated by this Agreement. Each Authorized user must be granted a unique User ID. User IDs cannot be shared or used by more than one Authorized User at a time. Customer is solely responsible for maintaining the confidentiality of Access Protocols and Company will not be liable for any activities undertaken by anyone using Customer's Access Protocols. Customer will immediately notify Company of any unauthorized use of its Access Protocols or any other breach of security relating to the Services known to Customer.

6.4 Customer Responsibility for Access, Content and Security. Except to the extent expressly specified on the Price Quote for Services, Company is not obligated to back up any Customer Content; the Customer is solely responsible for creating backup copies of any Customer Content at Customer's sole cost and expense. Customer shall have the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Content. Customer must maintain the Supported Environment (if any) described in the Price Quote for Services.



7. WARRANTIES AND DISCLAIMERS

7.1 Limited Warranty. Company warrants that it will make commercially reasonable efforts to maintain the online availability of the Services. CUSTOMER'S EXCLUSIVE REMEDY AND COMPANY'S ENTIRE LIABILITY UNDER THIS WARRANTY WILL BE FOR COMPANY TO REPAIR THE NON-CONFORMING SERVICE, OR IF COMPANY CANNOT MAKE SUCH REPAIR WITHIN A REASONABLE PERIOD OF TIME, THEN COMPANY MAY TERMINATE ACCESS TO THE SERVICES AND REFUND A PORTION OF THE FEE.

7.2 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 7.1, THE DOCUMENTATION, AND SERVICES ARE PROVIDED "AS IS," AND COMPANY MAKES NO (AND HEREBY DISCLAIMS ALL) OTHER REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF THE SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO CUSTOMER.

8. LIMITATION OF LIABILITY. EXCLUDING EACH PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN IN RESPECT OF THIRD-PARTY CLAIMS, (A) IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR OTHER INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR LOST DATA) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ITS PERFORMANCE HEREUNDER AND (B) IN NO EVENT SHALL EITHER PARTY'S LIABILITY TO THE OTHER AS A RESULT OF ANY CLAIM ARISING UNDER THIS AGREEMENT, REGARDLESS OF WHETHER SUCH CLAIM IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNT PAID BY CUSTOMER UNDER THIS AGREEMENT FOR THE APPLICABLE SERVICES GIVING RISE TO SUCH LIABILITY IN THE TWELVE (12) MONTHS PRIOR TO THE OCCURRENCE OF THE ACT OR OMISSION GIVING RISE TO SUCH CLAIM. SOME STATES AND JURISDICTIONS DO NOT ALLOW FOR THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION AND EXCLUSION MAY NOT APPLY TO CUSTOMER.

9. CONFIDENTIALITY; PRIVACY

9.1 Confidentiality. During the Term, each party ("Disclosing Party") may provide the other party ("Receiving Party") with Confidential Information. The Receiving Party agrees that it will not use or disclose to any third party any Confidential Information of the Disclosing Party, except as expressly permitted under this Agreement. The Receiving Party will limit access to the Disclosing Party's Confidential Information to Authorized Users (with respect to Customer as Receiving Party) or to those employees who have a need to know such Confidential Information to perform the Receiving Party's obligations or exercise the Receiving Party's rights under this Agreement, and who have been informed of the confidential nature of such information. In addition, the Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. At the Disclosing Party's request or upon the expiration or termination of this Agreement, the Receiving Party will return to the Disclosing Party or destroy (or permanently erase in the case of electronic files) all copies of the Confidential Information that the Receiving Party does not have a continuing right to use under this Agreement, and the Receiving Party shall provide to the Disclosing Party a written affidavit certifying compliance with this sentence.

9.2 Privacy. Company will comply with, and will cause each of its employees, agents, and contractors to comply with, all state, federal and municipal laws and regulations ("Applicable Laws") applicable to its performance under this Agreement, including without limitation the Family Educational Rights and Privacy Act and the Children's Online Privacy Protection Act. Company's Privacy Policy (as may be updated by Company from time to time), which is incorporated by reference into these terms and conditions, contains



additional terms regarding Company's use of Confidential Student Information. Customers and Authorized Users may view Company's privacy policy at <https://www.imaginelearning.com/privacy> ("Privacy Policy"). Customer is responsible for providing notice of its own privacy policy to parents of its students and is solely responsible for obtaining any necessary parental consents for students to use the Services.

9.3 Data Security. Company agrees that it will store and process Confidential Information, including Confidential Student Information, in accordance with customary industry standards. Company shall implement and maintain commercially reasonable administrative, technical and physical security measures designed to protect Confidential Information from unauthorized access, disclosure and use. Company will conduct periodic risk assessments and remediate identified material security vulnerabilities in a commercially reasonable manner. Company will have a written data breach response plan and will take commercially reasonable steps to notify the Customer once it becomes aware of a data breach known to involve, or likely involving, Customer Confidential Information. Company will cooperate with the Customer to comply with any applicable data breach notification laws.

9.4 Aggregated and De-Identified Data. Company may use aggregated data and De-Identified Data for product development, research, marketing, and other purposes as set forth in the Company's Privacy Policy.

9.5 Confidential Student Information Return and Destruction. Upon termination or expiration of this Agreement or thereafter, at the Customer's written request, Company shall, in a reasonable period of time, return all Confidential Student Information to Customer or shall destroy such Confidential Student Information that Company knows it possesses to the extent that destruction is reasonably practicable. Company shall not be required to return or destroy aggregated data or De-Identified Data. Customer acknowledges that some data may remain in archive or other files following Company's commercially reasonable attempt to return or destroy Confidential Student Information. Company may transfer Confidential Student Information and De-Identified Data or aggregated data to its successor pursuant to Section 13 of this Agreement.

10. INDEMNIFICATION

10.1 By COMPANY. Company shall indemnify, defend and hold harmless Customer against any third-party claims that the use of the Services as permitted hereunder infringes any copyright, US patent or other intellectual property right of a third party, and Company shall pay any losses, damages, costs, liabilities and expenses (including, but not limited to, reasonable attorneys' fees) finally awarded by a court to such third party or otherwise agreed to in settlement of such claim by Company. If any portion of the Services becomes, or in Company's opinion is likely to become, the subject of a claim of infringement, Company may, at Company's option, and as Customer's sole and exclusive remedy therefor: (a) procure for Customer the right to continue using the Services; (b) replace the Services with non-infringing software or services which do not materially impair the functionality of the Services; (c) modify the Services so that the Services become non-infringing; or (d) terminate this Agreement and refund any fees paid by Customer to Company for the remainder of the term then in effect, and upon such termination, Customer will immediately cease all use of the Documentation and Services. Notwithstanding the foregoing, Company shall have no obligation under this Section 10.1 or otherwise with respect to any third-party claim based upon (i) any use of the Services not in accordance with this Agreement or as specified in the Documentation; (ii) any use of the Services in combination with other products, equipment, software or data not supplied by Company; or (iii) any modification of the Services by any person other than Company or its authorized agents. This Section 10.1 states the sole and exclusive remedy of Customer and the entire liability of Company, and any of the officers, directors, employees, shareholders, contractors or representatives of Company, for claims and actions described in this Section 10.1.

10.2 By Customer. To the maximum extent allowed by applicable law, Customer shall indemnify defend and hold harmless Company against any third-party claims arising out of (a) any failure by Customer or any Authorized User to comply with applicable laws, rules and regulations (including those promulgated by U.S. federal or state regulatory authorities) in connection with its activities hereunder, including without limitation

Terms and Conditions of Company Services

its provision and Company's authorized use of Customer Content (possibly including student information) hereunder or failure to obtain required consent from any Authorized User or other end users, (b) Customer's unauthorized use of Services hereunder and/or (c) Customer's breach or alleged breach of any of its covenants, representations or warranties hereunder, and Customer shall pay any losses, damages, costs, liabilities and expenses (including, but not limited to, reasonable attorneys' fees) finally awarded by a court to such third party or otherwise agreed to in settlement of such claim by Customer. This Section 10.2 states the sole and exclusive remedy of Company and the entire liability of Customer, and any of the officers, directors, employees, shareholders, contractors or representatives of Customer, for the claims and actions described in this Section 10.2.

10.3 Procedure. The indemnifying party's obligations as set forth above are expressly conditioned upon each of the foregoing: (a) the indemnified party shall promptly notify the indemnifying party in writing of any threatened or actual claim or suit, provided, however, that failure to give prompt notice will not relieve the indemnifying party of any liability hereunder (except to the extent the indemnifying party has suffered actual material prejudice by such failure); (b) the indemnifying party shall have sole control of the defense or settlement of any claim or suit; and (c) the indemnified party shall (at the indemnifying party's expense) reasonably cooperate with the indemnifying party to facilitate the settlement or defense of any claim or suit.

11. TERM AND TERMINATION

11.1 Term. This Agreement shall be for the term (the "Initial Term") of any Services purchased pursuant to a Price Quote for Services and shall thereafter renew for one (1) year terms (each a "Renewal Term") upon the mutual written consent of the parties prior to the expiration of the then-current term. The Initial Term and the Renewal Terms (if any) are, collectively, the "Term." Customer only has the right to use the Services during the Term.

11.2 Termination. Either party may terminate this Agreement immediately upon written notice to the other party if the other party materially breaches this Agreement and fails to cure such breach within thirty (30) days after its receipt of written notice of such breach.

11.3 Effect of Termination. Immediately upon termination of this Agreement, (a) the licenses granted to either party shall immediately terminate; and (b) Company shall cease to make available and Customer shall cease to use the Services. Termination shall not relieve Customer's obligation to pay all charges accrued through the effective date of termination. Sections 3.3, 6.4, 7, 8, 9, 10, 11.3, 12 and 13 will survive the expiration or termination of this Agreement.

12. GOVERNING LAW AND VENUE If Customer is a public school or district or other state or municipal governmental agency (a "Public School"), this Agreement and any action related thereto will be governed and interpreted by and under the laws of the state where the Customer resides, excluding any conflict of law principles. Otherwise, this Agreement will be governed by the laws of the state of Arizona. Each party expressly waives any objection that it may have based on improper venue or forum non-conveniens to the conduct of any such suit or action in any state or federal court located in the state where the Customer resides, if Customer is a Public School. If Customer is not a Public School, such venue shall be state or federal court located in Phoenix, Arizona. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Customer shall always comply with all international and domestic laws, ordinances, regulations, and statutes that are applicable to its use of the Services hereunder.

13. MISCELLANEOUS.

13.1 Press Releases. If requested by Company, Customer agrees to cooperate in good faith with Company on a press release following execution of this Agreement and agrees to allow Company to list (using Customer's name and/or Customer's logo, as determined by Company) Customer as a customer on Company's website or in documentation to be shared electronically or in print.



Terms and Conditions of Company Services

13.2 Independent Contractors. The parties are independent contractors and nothing in this Agreement shall be deemed to create the relationship of partners, joint venturers, employer-employee, master-servant, or franchisor-franchisee between the parties. Neither party is, or will hold itself out to be, an agent of the other party. Neither party is authorized to enter into any contractual commitment on behalf of the other party.

13.3 No Additional Terms and Order of Precedence. These Terms and Conditions, together with the attached Price Quote for Services(s), contain the entire agreement of the parties and supersedes any prior or present understanding or communications regarding its subject matter, and may only be amended in a writing signed by both parties. In the event of a conflict between the terms in the Price Quote for Services and the Agreement, the terms contained in this Agreement shall control unless otherwise expressly stated in the Price Quote for Services.

13.4 Severability. In the event any provision of this Agreement is held by a court of law or other governmental agency to be void or unenforceable, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions shall remain in full force and effect.

13.5 Assignment. Neither party shall assign this Agreement without the other party's prior written consent, which shall not be unreasonably withheld. Notwithstanding the foregoing, either party may assign this Agreement to its successor pursuant to a merger, consolidation or sale of substantially all of its business or assets related to this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns.

13.6 Force Majeure. Neither party shall be deemed to be in breach of this Agreement for any failure or delay in performance (other than payment of Fees due hereunder) caused by reasons beyond its reasonable control, including, but not limited to, acts of God, pandemics, epidemics, war, terrorism, strikes, failure of suppliers, fires, floods or earthquakes.

13.7 Export. The use of the Services is subject to U.S. export control laws and may be subject to similar regulations in other countries. Customer agrees to comply with all such laws.

13.8 Notice. Any notice given under this Agreement shall be in writing and shall be sent via priority mail by a nationally recognized express delivery service addressed to the address and the signatory set forth in the Price Quote for Services set forth above. Such notice shall also be sent via email to the email address set forth in the Price Quote for Services set forth above.

13.9 No Third Party Beneficiary. There are no third-party beneficiaries to this Agreement.

13.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and both of which shall be taken together and deemed one instrument.

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the Effective Date.

CUSTOMER:	IMAGINE LEARNING LLC
Signature:	Signature:
Printed Name:	Printed Name:
Title:	Title:
Date:	Date:
Address:	Address: 8860 East Chaparral Road, Suite 100 Scottsdale, AZ 85250



Addendum for Instructional Services and Professional Development

1. **APPLICABILITY.** These additional terms and conditions apply if the Quote includes the purchase of Instructional Services or Professional Development Services from Imagine Learning LLC and its affiliates and subsidiaries ("Company"). In the event of a conflict between these additional terms and the Company's Terms and Conditions of Company Services, these additional terms shall control, but solely with respect to the provision of Instructional and/or Professional Development Services. Capitalized terms used, but not defined, in this addendum have the meanings set forth in the Term and Conditions of Company Services.
2. **CUSTOMER LIAISON.** Customer will designate an individual to serve as its primary liaison to Company for all communications related to the provision of Instructional and Professional Development Services, setting up access for End Users, and use of the Services.
3. **HOURS OF AVAILABILITY.** Company Instructional and Professional Development Services will be available during the business hours specified by Company, or if Customer requires Instructional Services for certain times or additional hours, such requirements must be specified in the Quote prior to the beginning of the term of Customer's purchase of Services. Requests for access to Instructional or Professional Development Services not already provided for in the Quote must be made or approved by the Customer Liaison, and may result in additional charges.
4. **NO GUARANTY OF OUTCOMES.** Company cannot make any guarantees, representations or warranties as to any student, teacher, or other End User outcomes or results from the Instructional or Professional Development Services.
5. **INSTRUCTIONAL SERVICES.** If specified in the Quote, Company will provide virtual access to teachers or coaches (or both) ("Company Instructors") who are hired, trained, supervised, and paid by Company, and who will assist in the virtual delivery of the Licensed Material to students and their use of the Services (the "Virtual Programs"). Customer is responsible for (a) providing secure internet access for End Users to use the Virtual Programs; (b) all day-to-day management of the Virtual Programs, subject in all cases to compliance with Applicable Law and Customer policies; (c) obtaining all necessary consents for the provision of Instructional Services where they will involve direct contact between Company Instructors and students and parents; (d) determining appropriate student courses and verifying student schedules; (e) monitoring student attendance and ensuring compliance with applicable state requirements; and (f) assisting students not making adequate progress.
 - a. **Instructor Requirements.** Customer shall be responsible for advising Company of any special certification, training, background checks, insurance, fingerprinting or similar requirements for the Company Instructors as may be imposed by Applicable Law ("Instructor Requirements"). Company shall be solely responsible for all decisions regarding hiring, supervision, discipline, and dismissal of Company Instructors, and for ensuring that all Company Instructors meet and comply with Instructor Requirements.
 - b. **Exceptional Student Services.** If Customer is a public entity receiving federal funds, Customer is considered the "Local Educational Agency," or LEA, as that term is defined by Applicable Law, and Customer is solely responsible for the provision of any special education services. Company's services do not include (i) providing special education services; (ii) creating, implementing or providing Individualized Education Programs ("IEP"); (iii) providing reasonable accommodations or any services to insure compliance with the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act, or any other Applicable Law. Notwithstanding the foregoing, Company will discuss, formulate and make reasonable adjustments and accommodations in furtherance of student IEPs or reasonable accommodations established by Customer, provided that Customer provides necessary IEPs and section 504 documentation to Company. Customer shall be solely responsible for the costs of any required adjustments or accommodations.



Terms and Conditions of Company Services

- c. **State Testing.** Customer is responsible for providing appropriate accommodations for the administration of any state-mandated standardized testing by End Users. Customer is also responsible for receiving, distributing, administering, proctoring and returning all state mandated standardized tests under applicable state law, policies and procedures.
 - d. **Reporting and Withdrawal of Students/End Users.** Where reporting of student results is required by Applicable Law, Customer shall be responsible for ensuring the accuracy and completeness of student information used, relied upon, or reported by Company in providing the Instructional Services, and shall promptly notify Company if any student information needs to be corrected or updated. Upon notice to Customer, Company reserves the right to withdraw End User access for students who fail to take required tests or maintain adequate progress.
6. **PROFESSIONAL DEVELOPMENT SERVICES.** If included in the Quote, Company may also provide Professional Development Services, ("PD Services") which may include training and instruction to Customer's instructors and administrators on the implementation and use of the Services, curriculum workshops, use of student information to monitor progress, and other related topics as may be specified in the Quote. Customer shall be solely responsible for providing necessary equipment and secure internet access to facilitate the PD Services, and for scheduling the PD Services at least two (2) weeks in advance.
- a. **Charges for PD Services.** Before delivering Professional Development Services, Company must receive a signed Quote specifying the number of hours included and the cost of the services provided, and all necessary setup and implementation services required to demonstrate and use the Services must be completed. Professional Development Services will be available for use by Customer only during the Term of the Subscription.
 - b. **Use of Customer's Facilities.** If Company will be providing any PD Services at Customer's premises, Customer shall advise Company in advance of any Instructor Requirements for Company personnel, and Company will be responsible for insuring that all Professional Development personnel meet and comply with all such requirements.
 - c. **Forfeiture & Cancellation of PD Services.** Professional Development services purchased but not scheduled and delivered within the first year of the Term may be forfeited without notice. Customer agrees to reimburse Company for travel and other out-of-pocket expenses incurred if Professional Development services are changed or cancelled less than 48 hours prior to the scheduled delivery date. Company reserves time exclusively for the Customer once Professional Development services have been scheduled. If Customer is a no-show or cancels scheduled Professional Development services in less than 48 hours before the scheduled delivery date, Customer may be charged for the scheduled services. The Parties must document in writing and sign any and all grace periods or extension of time for delivery of Professional Development Services.
7. **NO UNAUTHORIZED RECORDING OR REPRODUCTION.** All content delivered by Company as part of Instructional or PD Services are the property of Company, and customer may not record, reproduce or copy such content without Company's express written authorization.

Imagine Learning Trust Center

Imagine Learning cares about keeping your data safe. We believe you have a right to know what data we collect, how it is used, and how it is protected. The resources here provide details about our policies, including frequently asked questions.

Solutions ▾ Products ▾ Services **new** ▾ Research ▾ Community ▾ Support ▾ About ▾ → Login ✉ Contact

🔍 Search

Policy updated
January 1, 2022,
effective date
January 1, 2022

- ▶ View
- ▶ Ver (en español)

Frequently Asked Questions about our Privacy Policy.

- ▶ View

Access an archive of our previous Privacy Policies.

- ▶ View

View our End User Terms of Service agreements.

- ▶ View
- ▶ Ver (en español)

Privacy Notice for California Employees and Job applicants

- ▶ View

STUDENT PRIVACY PLEDGE
SIGNATORY

IMAGINE LEARNING END USER TERMS OF SERVICE

VERSION 1.0

LAST REVISED ON: JANUARY 1, 2022

Welcome to Imagine Learning! Before using Imagine Learning’s website, software, products, mobile application(s), and services (together, the “**Services**”, “**our Services**”, or “**Company’s Services**”), it is important that you carefully read the following agreement. The website located at www.imaginelearning.com (the “**Site**”) is a copyrighted work belonging to Imagine Learning LLC. (“**Company**”, “**us**”, “**our**”, and “**we**”). Certain features of the Services may be subject to additional guidelines, terms, or rules, which will be posted as appropriate in connection with such features. All such additional terms, guidelines, and rules are incorporated by reference into these Terms of Service.

THESE TERMS OF SERVICE (THE “**TERMS**”), ALONG WITH COMPANY’S PRIVACY POLICY, SET FORTH THE LEGALLY BINDING TERMS AND CONDITIONS THAT GOVERN YOUR USE OF COMPANY’S SERVICES. BY USING THE SERVICES, YOU ARE ACCEPTING THESE TERMS. YOU MAY NOT USE THE SERVICES OR ACCEPT THE TERMS IF YOU ARE NOT AT LEAST 13 YEARS OLD. IF YOU DO NOT AGREE WITH ALL OF THE PROVISIONS OF THESE TERMS, DO NOT USE THE SERVICES.

THESE TERMS REQUIRE THE USE OF ARBITRATION (SECTION 10.3) ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMIT THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.

1. ACCOUNTS

1.1 Account Creation. Before you use certain features of Company’s Services, an account will be created for you (“**Account**”) at the direction of the “**Account Holder**” (typically teachers or school administrators representing schools and/or school districts who subscribe to our Services). You represent and warrant that: (a) any registration information you provide to Account Holder will be truthful and accurate; and (b) you will maintain the accuracy of such information. You may request deletion of your Account by contacting the Account Holder. Company may suspend or terminate your Account in accordance with Section 8.

1.2 Account Responsibilities. You are responsible for maintaining the confidentiality of your Account login information and are fully responsible for all activities that occur under your Account. You agree to immediately notify Account Holder of any unauthorized use, or suspected unauthorized use of your Account or any other breach of security. Company cannot and will not be liable for any loss or damage arising from your failure to comply with the above requirements.

2. ACCESS TO THE SITE

2.1 License. Subject to these Terms, Company grants you a non-transferable, non-exclusive, revocable, limited license to use and access the Services solely for your own personal, noncommercial use.

2.2 Certain Restrictions. The rights granted to you in these Terms are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Services, whether in whole or in part, or any content displayed on the Services; (b) you shall not modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Site or Services; (c) you shall not access the Services in order to build a similar or competitive website, product, or service; and (d) except as expressly stated herein, no part of the Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. Unless otherwise indicated, any future release, update, or other addition to functionality of the Services shall be subject to these Terms. All copyright and other proprietary notices on the Services (or on any content displayed on any Service) must be retained on all copies thereof.

2.3 Modification. We reserve the right, at any time, to modify, suspend, or discontinue the Services (in whole or in part) with or without notice to you. You agree that Company will not be liable to you or to any third party for any modification, suspension, or discontinuation of the Services or any part thereof.

2.4 No Support or Maintenance. You acknowledge and agree that Company will have no obligation to provide you with any support or maintenance in connection with the Services.

2.5 Ownership. Excluding any User Content that you may provide (defined below), you acknowledge that all the intellectual property rights, including copyrights, patents, trademarks, and trade secrets, in the Services and their content

are owned by Company or our suppliers. Neither these Terms (nor your use of the Services) transfers to you or any third party any rights, title or interest in or to such intellectual property rights, except for the limited access rights expressly set forth in Section 2.1. Company and its suppliers reserve all rights not granted in these Terms. There are no implied licenses granted under these Terms.

2.6 Compliance with Law. You are responsible for using the Services in compliance with all applicable federal and state laws and regulations. You shall not use the Services in violation of any applicable law.

2.7 Use by Children Under 13. The Children’s Online Privacy Protection Act (“COPPA”) requires that all online service providers, including Company, obtain parental consent before knowingly collecting personally identifiable information from children under the age of 13. Company does not knowingly collect or solicit any personally identifiable information from children under the age of 13, and instead relies upon information provided to Company by Account Holder. Children under the age of 13 are prohibited from using the Services or creating an Account unless they are doing so with parental consent or with the consent of an Account Holder who is providing such consent in compliance with COPPA. If we learn that we have collected personal information from a person under the age of 13 that does not comply with COPPA, we will delete that information in a reasonably prudent amount of time. If you believe that a child under the age of 13 has provided personally identifiable information to us, please contact us at privacy@imaginelearning.com.

2.8 Accessibility. Company is committed to ensuring that the Services remain accessible to all individuals, regardless of disability. Company will take reasonable steps to ensure that the Services meet common industry standards for accessibility and materially comply with the requirements of the Americans with Disabilities Act (“ADA”), as applicable. If you have any suggestions about improvements Company can make to enhance the accessibility of the Services, please contact us at accessibility@imaginelearning.com.

3. USER CONTENT

3.1 User Content. “User Content” means any and all information and content that a user submits to, or uses with, the Services (e.g., content in the user’s profile or postings). You are solely responsible for your User Content. You assume all risks associated with use of your User Content, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure of your User Content that personally identifies you or any third party. You hereby represent and warrant that your User Content does not violate our Acceptable Use Policy (defined in Section 3.3). You may not represent or imply to others that your User Content is in any way provided, sponsored, or endorsed by Company. Because you alone are responsible for your User Content, you may expose yourself to liability if, for example, your User Content violates the Acceptable Use Policy. We are not obligated to backup any User Content, and your User Content may be deleted at any time without prior notice. You are solely responsible for creating and maintaining your own backup copies of your User Content if you desire.

3.2 License. You hereby grant (and you represent and warrant that you have the right to grant) to Company an irrevocable, nonexclusive, royalty-free and fully paid, worldwide license to reproduce, distribute, publicly display and perform, prepare derivative works of, incorporate into other works, and otherwise use and exploit your User Content, and to grant sublicenses of the foregoing rights, solely for the purposes of including your User Content in the Services. You hereby irrevocably waive (and agree to cause to be waived) any claims and assertions of moral rights or attribution with respect to your User Content.

3.3 Acceptable Use Policy. The following terms constitute our “Acceptable Use Policy”:

(a) You agree not to use the Services to collect, upload, transmit, display, or distribute any User Content (i) that violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) that is unlawful, harassing, abusive, tortious, threatening, harmful, invasive of another’s privacy, vulgar, defamatory, false, intentionally misleading, trade libelous, pornographic, obscene, patently offensive, promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual or is otherwise objectionable; (iii) that is harmful to minors in any way; or (iv) that is in violation of any law, regulation, or obligations or restrictions imposed by any third party.

(b) In addition, you agree not to: (i) upload, transmit, or distribute to or through the Services any computer viruses, worms, or any software intended to damage or alter a computer system or data; (ii) send through the Services unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages, whether commercial or otherwise; (iii) use the Services to harvest, collect, gather or assemble information or data regarding other users, including e-mail addresses, without their consent; (iv) interfere with, disrupt, or create an undue burden on servers or networks connected to the Services, or violate the regulations, policies or

procedures of such networks; (v) attempt to gain unauthorized access to our Services (or to other computer systems or networks connected to or used together with the Services), whether through password mining or any other means; (vi) harass or interfere with any other user's use and enjoyment of the Services; or (vi) use software or automated agents or scripts to produce multiple accounts on the Services, or to generate automated searches, requests, or queries to (or to strip, scrape, or mine data from) our Services (provided, however, that we conditionally grant to the operators of public search engines revocable permission to use spiders to copy materials from the Services for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials, subject to the parameters set forth in our robots.txt file).

(c) You further agree that you will not: (i) publish or post screenshots, video, text or other reproductions of content from any course provided through the Services or (ii) use any technology, code, or other method to automatically skip content or answer questions provided through the Services. The building, use, or sharing of any such technology, code, or other methodology is strictly prohibited.

3.4 Enforcement. We reserve the right (but have no obligation) to review any User Content, and to investigate and/or take appropriate action against you in our sole discretion if you violate the Acceptable Use Policy or any other provision of these Terms or otherwise create liability for us or any other person. Such action may include removing or modifying your User Content, terminating your Account in accordance with Section 8, and/or reporting you to law enforcement authorities.

3.5 Feedback. If you provide us with any feedback or suggestions regarding the Services ("**Feedback**"), you hereby assign to Company all rights in such Feedback and agree that we shall have the right to use and fully exploit such Feedback and related information in any manner it deems appropriate. Company will treat any Feedback you provide to us as non-confidential and non-proprietary. You agree that you will not submit to Company any information or ideas that you consider to be confidential or proprietary.

3.6 Your Data. As an education technology company that may collect data about K-12 and postsecondary students, Company is subject to certain laws and regulations, some of which are described below. Please visit our Privacy Policy for more information on how we collect, use, and safeguard data.

(a) Company will materially comply with all applicable federal and state student privacy laws and regulations. We will provide access to Personal Information pertaining to K-12 students only to our employees and subcontractors who need to access the data.

(b) "**Personal Information**" means, collectively personally identifiable information as defined in applicable law including the Family Educational Rights and Privacy ("**FERPA**"), the California Consumer Privacy Act ("**CCPA**"), and the European Union's General Data Protection Regulation ("**GDPR**").

4. INDEMNIFICATION. You agree to indemnify and hold Company (and its officers, employees, and agents) harmless, including costs and attorneys' fees, from any claim or demand made by any third party due to or arising out of (a) your use of the Services, (b) your violation of these Terms, (c) your violation of applicable laws or regulations or (d) your User Content. Company reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written consent of Company. Company will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

5. THIRD-PARTY LINKS; OTHER USERS

5.1 Third-Party Links. The Services may contain links to third-party websites and services (collectively, "**Third-Party Links**"). Such Third-Party Links are not under the control of Company, and we are not responsible for any Third-Party Links. Company provides access to these Third-Party Links only as a convenience to you, and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Links. You use all Third-Party Links at your own risk and should apply a suitable level of caution and discretion in doing so. When you click on any of the Third-Party Links, the applicable third party's terms and policies apply, including the third party's privacy and data gathering practices. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction in connection with such Third-Party Links.

5.2 Other Users. Each Service user is solely responsible for any and all of its own User Content. Because we do not control User Content, you acknowledge and agree that we are not responsible for any User Content, whether provided by you or by others. We make no guarantees regarding the accuracy, currency, suitability, or quality of any User Content. Your interactions with other Service users are solely between you and such users. You agree that Company will not be

responsible for any loss or damage incurred as the result of any such interactions. If there is a dispute between you and any Service user, we are under no obligation to become involved.

5.3 Release. You hereby release and forever discharge Company (and our officers, employees, agents, successors, and assigns) from, and hereby waive and relinquish, each and every past, present and future dispute, claim, controversy, demand, right, obligation, liability, action and cause of action of every kind and nature (including personal injuries, death, and property damage), that has arisen or arises directly or indirectly out of, or that relates directly or indirectly to, the Services (including any interactions with, or act or omission of, other Service users or any Third-Party Links & Ads). IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

6. DISCLAIMERS

THE SITE IS PROVIDED ON AN “AS-IS” AND “AS AVAILABLE” BASIS, AND COMPANY (AND OUR SUPPLIERS) EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE (AND OUR SUPPLIERS) MAKE NO WARRANTY THAT THE SITE WILL MEET YOUR REQUIREMENTS, WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS, OR WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SERVICES, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF FIRST USE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

7. LIMITATION ON LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL COMPANY (OR OUR SUPPLIERS) BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST DATA, COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS, OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THESE TERMS OR YOUR USE OF, OR INABILITY TO USE, THE SERVICES, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACCESS TO, AND USE OF, THE SERVICES IS AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR COMPUTER SYSTEM, OR LOSS OF DATA RESULTING THEREFROM.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO A MAXIMUM OF FIFTY US DOLLARS (U.S. \$50). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. YOU AGREE THAT OUR SUPPLIERS WILL HAVE NO LIABILITY OF ANY KIND ARISING FROM OR RELATING TO THIS AGREEMENT.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

8. TERM AND TERMINATION.

8.1 Termination; Effect of Termination. Subject to this Section, these Terms will remain in full force and effect while you use the Services. We may suspend or terminate your rights to use the Services (including your Account) at any time for any reason at our sole discretion, including for any use of the Services in violation of these Terms. Upon termination of your rights under these Terms, your Account and right to access and use the Services will terminate immediately. You understand that any termination of your Account may involve deletion of your User Content associated with your Account from our live databases. Company will not have any liability whatsoever to you for any termination of your rights under these Terms, including for termination of your Account or deletion of your User Content. Even after your rights under these Terms

are terminated, the following provisions of these Terms will remain in effect: Sections 2.2 through 2.5, Section 2.7, and Sections 4 through 10.

8.2 Deletion of Personal Information. Upon termination of your Account, you may request that Account Holder direct Company to delete any Personal Information from its live databases. Company agrees to take commercially reasonable steps to honor any deletion requests received from Account Holder in a reasonable amount of time (not to exceed ninety (90) days). You understand and agree that Company may continue to have Personal Information in archive files or similar databases. You further agree that Company has no obligation to delete aggregated or de-identified information. Company may retain and use aggregated and de-identified information for any purpose that is consistent with applicable federal and state laws and regulations.

9. COPYRIGHT POLICY.

Company respects the intellectual property of others and asks that users of our Services do the same. In connection with our Services, we have adopted and implemented a policy respecting copyright law that provides for the removal of any infringing materials and for the termination, in appropriate circumstances, of users of our Services who are repeat infringers of intellectual property rights, including copyrights. If you believe that one of our users is, through the use of our Services, unlawfully infringing the copyright(s) in a work, and wish to have the allegedly infringing material removed, the following information in the form of a written notification (pursuant to 17 U.S.C. § 512(c)) must be provided to our designated Copyright Agent:

1. your physical or electronic signature;
2. identification of the copyrighted work(s) that you claim to have been infringed;
3. identification of the material on our services that you claim is infringing and that you request us to remove;
4. sufficient information to permit us to locate such material;
5. your address, telephone number, and e-mail address;
6. a statement that you have a good faith belief that use of the objectionable material is not authorized by the copyright owner, its agent, or under the law; and
7. a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright that has allegedly been infringed or that you are authorized to act on behalf of the copyright owner.

Please note that, pursuant to 17 U.S.C. § 512(f), any misrepresentation of material fact (falsities) in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney's fees incurred by us in connection with the written notification and allegation of copyright infringement.

The designated Copyright Agent for Company is:

Designated Agent: Legal Department
Address of Agent: 8860 E Chaparral Road, Suite 100, Scottsdale, AZ 85250
Telephone: 480-675-7284
E-mail: legal@imaginelearning.com

10. GENERAL

10.1 Fees. At this time, all fee agreements are made with Account Holder. Any change to this policy would be effective upon thirty (30) calendar days' notice.

10.2 Changes. These Terms are subject to occasional revision, and if we make any substantial changes, we may notify you by sending you an e-mail to the last e-mail address you provided to us (if any), and/or by prominently posting notice of the changes on our Site. Any changes to these Terms will be effective upon the earlier of thirty (30) calendar days following our dispatch of an e-mail notice to you (if applicable) or thirty (30) calendar days following our posting of notice of the changes on our Site. These changes will be effective immediately for new users of our Services. Continued use of our Services following notice of such changes shall indicate your acknowledgement of such changes and agreement to be bound by the terms and conditions of such changes.

10.3 Dispute Resolution; Mandatory Arbitration. *Please read this Arbitration Agreement carefully. It is part of your contract with Company and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.*

(a) *Applicability of Arbitration Agreement.* All claims and disputes (excluding claims for injunctive or other equitable relief as set forth below) in connection with the Terms or the use of any product or service provided by Company that cannot be resolved informally or in small claims court shall be resolved by binding arbitration on an individual basis under

the terms of this Arbitration Agreement. Unless otherwise agreed to, all arbitration proceedings shall be held in English. This Arbitration Agreement applies to you and Company, and to any subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or goods provided under the Terms.

(b) *Notice Requirement and Informal Dispute Resolution.* Before either party may seek arbitration, the party must first send to the other party a written Notice of Dispute (“**Notice**”) describing the nature and basis of the claim or dispute, and the requested relief. A Notice to Company should be sent to: Attn: Legal Department, 8860 E Chaparral Road, Suite 100, Scottsdale AZ 85250. After the Notice is received, you and Company may attempt to resolve the claim or dispute informally. If you and Company do not resolve the claim or dispute within thirty (30) days after the Notice is received, either party may begin an arbitration proceeding. The amount of any settlement offer made by any party may not be disclosed to the arbitrator until after the arbitrator has determined the amount of the award, if any, to which either party is entitled.

(c) *Arbitration Rules.* Arbitration shall be initiated through the American Arbitration Association (“**AAA**”), an established alternative dispute resolution provider (“**ADR Provider**”) that offers arbitration as set forth in this section. If AAA is not available to arbitrate, the parties shall agree to select an alternative ADR Provider. The rules of the ADR Provider shall govern all aspects of the arbitration, including but not limited to the method of initiating and/or demanding arbitration, except to the extent such rules are in conflict with the Terms. The AAA Consumer Arbitration Rules (“**Arbitration Rules**”) governing the arbitration are available online at www.adr.org or by calling the AAA at 1-800-778-7879. The arbitration shall be conducted by a single, neutral arbitrator. Any claims or disputes where the total amount of the award sought is less than Ten Thousand U.S. Dollars (US \$10,000.00) may be resolved through binding non-appearance-based arbitration, at the option of the party seeking relief. For claims or disputes where the total amount of the award sought is Ten Thousand U.S. Dollars (US \$10,000.00) or more, the right to a hearing will be determined by the Arbitration Rules. Any hearing will be held in a location within 100 miles of your residence, unless you reside outside of the United States, and unless the parties agree otherwise. If you reside outside of the U.S., the arbitrator shall give the parties reasonable notice of the date, time and place of any oral hearings. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. If the arbitrator grants you an award that is greater than the last settlement offer that Company made to you prior to the initiation of arbitration, Company will pay you the greater of the award or \$2,500.00. Each party shall bear its own costs (including attorney’s fees) and disbursements arising out of the arbitration and shall pay an equal share of the fees and costs of the ADR Provider.

(d) *Additional Rules for Non-Appearance Based Arbitration.* If non-appearance based arbitration is elected, the arbitration shall be conducted by telephone, online and/or based solely on written submissions; the specific manner shall be chosen by the party initiating the arbitration. The arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise agreed by the parties.

(e) *Time Limits.* If you or Company pursue arbitration, the arbitration action must be initiated and/or demanded within the statute of limitations (i.e., the legal deadline for filing a claim) and within any deadline imposed under the AAA Rules for the pertinent claim.

(f) *Authority of Arbitrator.* If arbitration is initiated, the arbitrator will decide the rights and liabilities, if any, of you and Company, and the dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages, and to grant any non-monetary remedy or relief available to an individual under applicable law, the AAA Rules, and the Terms. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and Company.

(g) *Waiver of Jury Trial.* THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY, instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement. Arbitration procedures are typically more limited, more efficient and less costly than rules applicable in a court and are subject to very limited review by a court. In the event any litigation should arise between you and Company in any state or federal court in a suit to vacate or enforce an arbitration award or otherwise, YOU AND COMPANY WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge.

(h) *Waiver of Class or Consolidated Actions.* ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND

NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER.

(i) *Confidentiality.* All aspects of the arbitration proceeding, including but not limited to the award of the arbitrator and compliance therewith, shall be strictly confidential. The parties agree to maintain confidentiality unless otherwise required by law. This paragraph shall not prevent a party from submitting to a court of law any information necessary to enforce this Agreement, to enforce an arbitration award, or to seek injunctive or equitable relief.

(j) *Severability.* If any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable by a court of competent jurisdiction, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Agreement shall continue in full force and effect.

(k) *Right to Waive.* Any or all of the rights and limitations set forth in this Arbitration Agreement may be waived by the party against whom the claim is asserted. Such waiver shall not waive or affect any other portion of this Arbitration Agreement.

(l) *Survival of Agreement.* This Arbitration Agreement will survive the termination of your relationship with Company.

(m) *Small Claims Court.* Notwithstanding the foregoing, either you or Company may bring an individual action in small claims court.

(n) *Emergency Equitable Relief.* Notwithstanding the foregoing, either party may seek emergency equitable relief before a state or federal court in order to maintain the status quo pending arbitration. A request for interim measures shall not be deemed a waiver of any other rights or obligations under this Arbitration Agreement.

(o) *Claims Not Subject to Arbitration.* Notwithstanding the foregoing, claims of defamation, violation of the Computer Fraud and Abuse Act, and infringement or misappropriation of the other party's patent, copyright, trademark or trade secrets shall not be subject to this Arbitration Agreement.

(p) *Courts.* In any circumstances where the foregoing Arbitration Agreement permits the parties to litigate in court, the parties hereby agree to submit to the personal jurisdiction of the courts located within Maricopa County, Arizona, for such purpose.

10.4 Export. The Services may be subject to U.S. export control laws and may be subject to export or import regulations in other countries. You agree not to export, reexport, or transfer, directly or indirectly, any U.S. technical data acquired from Company, or any products utilizing such data, in violation of the United States export laws or regulations.

10.5 Disclosures. Company is located at the address in Section 10.11. If you are a California resident, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Product of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.

10.6 Electronic Communications. The communications between you and Company use electronic means, whether you use the Site or send us emails, or whether Company posts notices on the Services or communicates with you via email. For contractual purposes, you (a) consent to receive communications from us in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications would satisfy if it were be in a hardcopy writing. The foregoing does not affect your non-waivable rights.

10.7 Entire Terms. These Terms constitute the entire agreement between you and us regarding the use of the Services. Our failure to exercise or enforce any right or provision of these Terms shall not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. The word "including" means "including without limitation". Your relationship to Company is that of an independent contractor, and neither party is an agent or partner of the other.

10.8 Severability. If any provision of these Terms is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

10.9 Assignment. These Terms, and your rights and obligations herein, may not be assigned, subcontracted, delegated, or otherwise transferred by you without Company's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. Company may freely assign these Terms. The terms and conditions set forth in these Terms shall be binding upon assignees.

10.10 Copyright/Trademark Information. Copyright © 2022 IMAGINE LEARNING LLC. All rights reserved. All trademarks, logos and service marks (“**Marks**”) displayed on the Site are our property or the property of other third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party which may own the Marks.

10.11 Contact Information:

Legal Department
8860 E Chaparral Road, Suite 100, Scottsdale, AZ 85250
Telephone: 480-675-7284
E-mail: legal@imaginelearning.com

🔍 Search

Imagine Learning's Privacy Policy

[Download Privacy Policy](#)

[Back to Trust Center](#)

January 1, 2022

We know you care about how your personal information is used and shared, and we take your privacy and the privacy of students seriously. We've updated our privacy policy ("Privacy Policy") so that it more accurately describes our practices. Let us know if you have any questions.

Imagine Learning LLC ("Imagine Learning", "we" or "us") is committed to protecting the privacy of students, parents, and educators, while providing students and schools with a dynamic learning and teaching environment made possible by the Internet. This Privacy Policy addresses the privacy practices of Imagine Learning. Imagine Learning's products and services are intended for ultimate use by parents, teachers and students, but only schools and school districts (together with similar purchase entities, "Local Educational Agencies" or "LEAs") may sign up for Imagine Learning. This Privacy Policy is applicable to all Imagine Learning products and services available online (the "Services").

If we intend to use or disclose members' Personal Information (as defined below) in a manner materially different from that stated at the time of collection we will send notification by email to those who have shared with us their email addresses.

What is This Policy?

WE FULLY DESCRIBE OUR PRIVACY PRACTICES BELOW IN THIS PRIVACY POLICY. THIS SUMMARY PROVIDES AN OVERVIEW OF SOME IMPORTANT INFORMATION REGARDING OUR USE AND SHARING OF YOUR INFORMATION, AND THIRD PARTIES WHO MAY SET COOKIES OR WEB BEACONS OR SIMILAR TRACKING TECHNOLOGIES WHEN YOU USE THE SERVICES. PLEASE READ THE ENTIRE PRIVACY POLICY VERY CAREFULLY. BY USING ANY SERVICE, YOU AGREE TO BE BOUND BY THIS PRIVACY POLICY IN ITS ENTIRETY.

Information Collection/How we use your information: We primarily use the information we collect when you use the Services in connection with your relationship with Imagine Learning, your use of the Services, and for sending you information from us.

Information Sharing: Remember that if you create an account or share Personal Information with other users on the Services, your information may be visible to others. However, student data will only be visible to their administrators, teachers and parents, and students cannot share data with other students. Note that we do not share your Personal Information with third parties for their marketing purposes; however, we may share your Personal Information under certain limited circumstances.

Third party analytics providers: We work with analytics service providers and other vendors to provide us with information regarding traffic on our websites or through our service (collectively referred to as "Sites"), including the pages viewed and the actions users take when visiting the Sites and to provide us with information regarding the use of the Sites.

How Are Accounts Created?

Users must create an Imagine Learning account to access certain portions of our site. The use of the Imagine Learning website is contingent on our processing of your Personal Information as set forth in this Privacy Policy. By creating an account and/or using the website, you are consenting to such practices. If you do not consent to our processing of your Personal Information as set forth in this Privacy Policy, you should not use our website.

When LEAs purchase licenses, Imagine Learning creates an organization in the product and grants administrative access to that organization through a primary account. The LEA then enrolls students and teachers/administrators into schools and classrooms and creates accounts on their behalf. When the LEA creates student accounts, they are acting on behalf of parents to give Imagine Learning permission to collect the information described in this Privacy Policy, and Imagine Learning is acting as a service provider to the LEA.

When the primary account belongs to a LEA, student accounts will be populated in coordination with that LEA. Students will then be provided login information in a manner specific to that district and in accordance with LEA policy, which may in some cases be through a LEA-wide "single sign-on" or by communicating an initial login and password to the student.

Some Services may also allow a LEA to create a parent account tied to a student account if so desired.

Consent by LEAs, Teachers, and Parents

If you are a student of any age, you must get permission from your LEA or LEA-authorized representative to use the Services.

 English ▾

Imagine Learning Services are not offered directly to students on any basis, and LEAs must first sign up for primary accounts, and then invite students, teachers, and parents to use Imagine Learning through the accounts they create. LEAs that have obtained licenses must provide consent on behalf of students for Imagine Learning to collect and use student data described in this Privacy Policy and opt to allow for student account creation.

What Information Does Imagine Learning Collect About Students, Teachers, and Parents?

Information shared with us: We may collect "Personal Information" (which is information that can reasonably be used, alone or in combination with other reasonably available information, to identify or contact a specific individual). Personal Information includes, but is not limited to, student data, metadata, and user content. The information that we collect from logged-in users includes information that you voluntarily provide to us when you use your account and information that is automatically collected when you are logged into the Imagine Learning platform. The information collected depends on whether you are a teacher, LEA, parent, or student and may vary slightly from product to product. Below is a list of information collected across all our Services.

Student Account:

- Required student information
 - Student first and last name
 - Grade level
 - Language
 - Student number
 - Student username and password for our Services
 - LEA name
 - Information provided through use of our Services:
 - Assessment results and scores including academic performance and placement, psychographic information, and screening results
 - Curriculum progress
 - Audio recordings
 - Student-generated content (e.g., responses to writing prompts and math journals)
 - Communications (such as chat text logs between students and certified teachers, grade commentary, etc.)
 - Certificates of achievement and curriculum completion
- Optional student information (Note that we will never condition a student's participation in an activity on the student's disclosure of more Personal Information than is necessary to participate in the activity)
 - Single sign-on ID (for schools that use a single sign-on functionality)
 - Demographic information (such as date of birth, gender, ethnicity/race, language).
 - Special indicators (such as Individual Education Plan (IEP) status, English-Language Learner (ELL) status, living situations (foster care/homeless), low-income status etc.)
 - Organization number (e.g., school or district identifier, state identification, or other number)
 - Student email

Teacher/Administrator Account:

- Teacher/Administrator first and last name
- Teacher/Administrator title
- Email address
- LEA name
- State
- Teacher/Administrator username and password for our Services
- Single sign-on ID (for schools that use a single sign-on functionality)
- Certificates of completion for online training

English Parent Account (optional):

- Parent first and last name
- Email address
- Parent username and password for our Services

Information collected from our marketing website: Independent of our Services used by students and teachers, we have websites limited to those browsing our marketing content. Our marketing websites collect some data, such as name and contact information, via online forms and some data via cookies and other social media trackers used on marketing pages.

Information received from third parties: Third parties may provide us with information about you. For example, if you are on a third-party website, and opt-in to receive information from us, that third party will forward information to us so that we may contact you as requested. Any personal information received from these third parties will be handled in accordance with this Privacy Policy and our agreements with these parties. We sometimes combine information we receive from third parties with the personal information we collect through the Services. Any such combined information will be treated as Personal Information in accordance with this Privacy Policy.

Information we collect automatically: In every case we also log certain detailed technical information about all users' interactions with our Services that could be linked with users (including students). This includes the IP addresses that we get when users connect to our Services, information that is sent by web browsers automatically when they connect to our Services (such as the type of web browser, the operating system used and the time zone set on the user's computer), and the timing and frequency of how users interact with different content and different areas of our Sites.

We use following methods and tools to collect and track the automatically collected information described above:

- **Cookies:** Like many other websites and apps, we set cookies so that we may recognize when someone connecting to our Sites is currently logged in or has visited before. A cookie is a data file sent to a browser from a web server and stored on the user's computer's hard drive that allows us to recognize that browser when the user returns to our Sites. To learn more about browser cookies, including how to manage or delete them, look in the Tools, Help or similar section of your browser, or visit <http://www.allaboutcookies.org>.
- **How we respond to Do Not Track signals:** Please note that your browser setting may allow you to automatically transmit a "Do Not Track" (DNT) signal to websites and online service you visit. DNT is a privacy preference users can set in certain web browsers to inform websites and services that they do not want certain information about their webpage visits collected over time and across websites or online services. However, we do not recognize or respond to browser-initiated DNT signals, as the internet industry is still working to determine what DNT means, how to comply with DNT, and how to create a common approach to responding to DNT. To find out more about "Do Not Track", please visit <http://www.allaboutdnt.com>.

Like most online services, when you use the Services, we automatically collect and store details of how you used our service, such as your activity on the Services, and the frequency and duration of your visits.

By using our Services you agree to our use of these information collection technologies.

De-identified and Aggregate Data

We frequently aggregate information in a way that is designed to make it impracticable to use that data to identify a particular person. We also sometimes maintain individual data records with personal identifiers removed in a manner that is impracticable to relink it to any specific individual. In this Privacy Policy, we refer to such data as "De-Identified Data" and do not consider it to be Personal Information. We do not attempt to re-identify information that has been de-identified.

What Student Information Can Other Users See?

When the primary account belongs to a LEA, the account administrator designated by the LEA can access all information we collect about students that we make available through our websites and online services. LEA-designated administrators can delegate the right to view student information in accordance with LEA policy. Each teacher within that LEA can see only information relating to students' participation in classes taught by that teacher (unless granted additional access by the LEA account administrator).

Some Services may allow a LEA to create a parent account tied to a student account if so desired. Parents may view student information only for the student accounts to which they've been linked.

What Does Imagine Learning Do With Personal Information?



We will not share Personal Information we collect in any way not described by this Privacy Policy. Except as noted below, we do not share any Personal Information with third parties for advertising, marketing, or other purposes. There is no third-party advertising on Imagine Learning. We do not amass student profiles except in the furtherance of school purposes. We do not ask or require students to provide information beyond that which is reasonably necessary to provide the Services. Except in limited instances to provide support services under an agreement, we do not share any student login information with any third party, and we do not automatically collect Personal Information from student accounts. Information collected from students is never used or disclosed for any third-party advertising or any kind of behaviorally targeted advertising. We do not market to or survey students; however, students may choose to provide ratings and other feedback about their experience with learning activities. LEA staff may be invited to provide feedback about their experiences, but participation is never required. Students are occasionally asked to provide feedback on their enjoyment level of various aspects of the Services.

We do collect website usage information through third-party analytics services and anonymized data to help us improve our experiences for students, but such information does not contain Personal Information. We also collect website usage information through third-party analytics services for non-student users to support product support and development.


We use Personal Information and any other information collected through the website for the following reasons:

- to administer the Services;
- to improve the quality and types of services that we deliver;
- to analyze usage of the Services and the popularity and performance of our Sites;
- to communicate with parents, teachers and LEAs by responding to your requests, comments and questions;
- to track and assess student development and progress;
- to generate reports that allow parents, teachers, and other authorized persons to evaluate student progress, identify students who need intervention, and discover students who can be taught together as a group;
- to diagnose technical problems;
- to email parents, teachers, and other authorized persons regarding service, technical and other administrative matters. These communications may also include information regarding changes in services, new service offerings and important service-related notices, such as security and fraud notices. Such communications will only be delivered to parents, teachers and LEAs and will never be delivered to student users;
- to send users alerts to notify them about pertinent activity on our Services, such as messages from colleagues or upcoming assignments (“Notification Alerts”). These Notification Alerts may be sent to all users of our Services, including students;
- to provide useful analyses to users and primary account owners;
- to conduct research and analytics to improve our Services and value to you, and to perform research for authorized persons;
- to protect Imagine Learning and our users, such as conducting audits or notifying LEAs of inappropriate or potentially harmful behavior;
- to assist students who request online help from our state-certified, security-cleared teachers who are employed by Imagine Learning to provide individualized instruction;
- for other educational purposes requested and sanctioned by an authorized representative of the LEA;
- for billing, account management, and other administrative matters;
- to comply with a judicial order, subpoena or other legal request; or
- as required by applicable law or regulation.

Third Parties

How We Share Information

We use third-party service providers to provide a variety of services, such as assisting us with providing customer support, hosting our Services, providing us with analytics about how people use our Services, assisting us with marketing our Services to LEA administrators and teachers, sending and tracking responses to email, providing a framework for the delivery of assessment tools and analytics, storing data, providing single sign-on services (where applicable), and helping us identify and track bugs and errors in our Services. Student analytics data are anonymous, but teacher analytics data include teacher name and email address. Third parties we work with are contractually prohibited from using any Personal Information for any purpose other than providing the services we request from them.

 When a LEA is the primary account holder, we share information with third parties at the direction of the LEA, and it is the LEA's responsibility to make such requests in a manner that is consistent with their internal policies and the law. We may also share information

that we collect in the following (or comparable) circumstances:

- if we believe in good faith that it is necessary to disclose the information under any applicable law or regulation (for example, in response to a court order or a subpoena);
- if we believe in good faith that it is necessary to investigate, prevent, or take action regarding illegal activities, suspected fraud, situations involving potential threats to the physical safety of any person;
- to investigate and act upon potential violations of the law or of our terms of service;
- to provide information to a claimed owner of intellectual property who claims that content you have provided infringes on their rights;
- in response to bankruptcy proceedings;
- with teachers (and parents where necessary) so they can see information about their students or children, such as the student's or child's name, school affiliation and activity on assignments (including time of activity and any responses to questions, extending to grades for those assignments);
- when any user logs into Imagine Learning with a third-party account (such as a ClassLink, Clever, Google or other Learning Management System account), that third party will learn that that user has visited Imagine Learning, and that information will be subject to that third party's privacy policy and practices;
- with third-party products specifically configured by LEAs to interoperate with Imagine Learning;
- if the information is De-Identified Data;
- with our corporate affiliates, parents, and/or subsidiaries; or
- in other circumstances that you expressly consent to.

When logged into our Services, users may choose to interact with Google APIs to submit assignments to our learning management system. For example, users may log into their Google Drive account to select files they wish to upload to the Services as work products. As another example, LEAs may choose to integrate our Services with Google Classroom, linking students from our Services to their corresponding accounts in Google Classroom. If configured by the LEA, this can make it easier for students to login to the Services (i.e., Single Sign-On) without entering another username and password. This may also allow scores and grades from our Services to be automatically passed back to Google Classroom, making it easier for teachers to create and assign work, manage scores, and streamline reporting. Imagine Learning's use and transfer to any other app of information received from Google APIs will adhere to [Google API Services User Data Policy](#), including the **Limited Use** requirements.

We will not sell Personal Information to anyone for monetary compensation. However, we do share Personal Information that could be considered a 'sale' under the California Consumer Privacy Act such as in connection with the sale of Imagine Learning's equity or assets or a merger of Imagine Learning with another company. Any sale or merger would be conditioned so that such information will continue to be covered by the then-applicable Privacy Policy or a policy at least as robust as such Privacy Policy.

If there are changes to this Privacy Policy in the future, LEAs, teachers, and parents may agree to those changes through continued use of the Services or choose to stop using Imagine Learning and we will delete their information and the information about their students.

Third Party Content, Links to Other Sites, and Imagine Learning Content Found Outside the Site

Certain content provided through the Services may be hosted and served by third parties. In addition, our Services includes some links to third party sites or content over which Imagine Learning has no control and which are governed by the privacy policies and business practices of those third parties. We are not responsible for the data collection practices on those other sites. We advise you to carefully review those sites' privacy policies before submitting Personal Information there.

Please also note that Imagine Learning content may be included on web pages and websites that are not associated with us and over which we have no control. These third parties may independently collect data. Imagine Learning is not responsible or liable for the privacy practices or business practices of any third party.

Access through a Mobile Device

If you use our Services through a mobile device or one of our mobile applications, you agree that Imagine Learning may store and use that information for security purposes (for example, for user verification or authentication and to ensure that our APIs are being used appropriately.)

Students may have the option to log in with a QR code from their teacher. Scanning the QR code requires use of camera. All the processing happens through the LEA. No video is transmitted or stored on our servers. Students may be able to record themselves use the device's

microphone during certain educational activities. These recordings are processed and stored on our servers. Permission is obtained prior to access to the device's camera or microphone.

Children's Information

Protecting the privacy of young children is especially important to Imagine Learning. For that reason, we created certain features designed to help protect Personal Information relating to children who are less than 13 years of age (or higher age if required by applicable law) ("Child Users").

The Children's Online Privacy Protection Act ("COPPA") requires that all online service providers, including Imagine Learning, obtain parental consent before knowingly collecting personally identifiable information from children under the age of 13. Imagine Learning does not knowingly collect or solicit any personally identifiable information from children under the age of 13, and instead relies upon information provided to Imagine Learning by the account holder. Children under the age of 13 are prohibited from using the Services or creating an account unless they are doing so with parental consent or with the consent of an account holder who is providing such consent in compliance with COPPA. If we learn that we have collected personal information from a person under the age of 13 that does not comply with COPPA, we will delete that information in a reasonably prudent amount of time. If you believe that a child under the age of 13 has provided personally identifiable information to us without appropriate consent, please contact us at privacy@imaginelearning.com.

How does a child register and use the Services?

Child Users cannot obtain a user account without it being created by a teacher or other LEA-authorized representative.

What children's information is visible to others?

No student's profile is made available or visible to the public through Imagine Learning. If a teacher utilizes certain features on a device in the classroom, other students may be able to view information that is displayed by the teacher in the classroom, but students can't view each other's individual student profiles.

Parents: To review your child's user data you must request the information from your child's teacher. Some Services may allow a LEA to create a parent account tied to their respective students. In such cases, a parent may access their child's information through the parent account.

Our Security Practices

We strive to protect the confidentiality, security, and integrity of the Personal Information we collect from children and adults. We have put in place physical, electronic, and administrative procedures designed to safeguard and to help prevent unauthorized access to and maintain the security of personally identifiable information collected through our Services.

All accounts are protected by passwords. Please keep these passwords secret to prevent unauthorized access to these accounts. If you think someone has gained unauthorized access to an account please change your password and contact us immediately.

We take customary and reasonable measures designed to protect the confidentiality, security, and integrity of Personal Information collected on our Services, both during transmission and within our systems. Such protections include, but are not limited to:

- **Data encryption and storage:** Data is encrypted in transit (SSL/TLS) and at rest. Personal Information is stored and processed within the continental United States.
- **Access:** Access to Personal Information is restricted to a limited number of Imagine Learning employees who need such access to perform their job.
- **Data Systems Monitoring:** We employ several third-party services that continuously monitor and scan our Services for vulnerabilities. Employees dedicated to operating the Services monitor these reports and receive automated alerts when performance falls outside of prescribed norms.
- **Incident Response Plan:** Imagine Learning maintains an incident response plan.
- **Firewalls:** Anti-virus software and firewalls are installed and configured to prevent malicious or unauthorized traffic.
- **Security audits:** Imagine Learning conducts security audits and code reviews, both by external and internal providers.
- **Employee training:** Imagine Learning has designated privacy and data security officials to oversee employee security training and compliance.



Data Breach or Security Incident

While we have taken customary and reasonable steps to protect the Personal Information we collect, no system is 100% fail-proof and secure.

In the event that Imagine Learning becomes aware of a data breach impacting your Personal Information, we will provide notification in compliance with all applicable laws and our contracts with LEAs. For example, we may post a notice on our landing page or elsewhere on our Services and may send an email to you at the email address you have provided to us. Depending on where you live, you may have a legal right to receive notice of a security breach in writing.

Imagine Learning has procedures in place that are designed to stop threats that may expose Personal Information, restore the Sites to full functionality, and document and take proactive steps to ensure the incident cannot be repeated. Imagine Learning will also preserve necessary evidence for investigation by security professionals and law enforcement as appropriate. In the unlikely event of an unauthorized disclosure of records, Imagine Learning will follow its internal procedures, that articulate how to report the problem to internal and external stakeholders. The notification process includes any information that can identify which customers and students may have been impacted, the data that may have been accessed, Imagine Learning's process to inform affected customers, and steps to prevent the incident from happening again as appropriate.

In the unlikely event of an unauthorized disclosure of Data, Imagine Learning has implemented a process for responding to incidents and notifying affected individuals and, if applicable, law enforcement personnel.

If you have any questions about security on our Services, you can email us by clicking [here](#) or emailing privacy@imaginelearning.com directly.

Your Choices Related to Your Privacy

In order to process your information, we rely on your consent or our legitimate interests to process your data. You may withdraw your consent or object to the use of our information at any time, but you may no longer be able to access our Services.

Communications from Imagine Learning

Imagine Learning may send you information by email or may post notices on the Imagine Learning homepage (<https://imaginelearning.com>).

You may choose to stop receiving certain emails from Imagine Learning by using the unsubscribe button at the bottom of the Imagine Learning email. You may still receive transactional emails from us related to forgotten passwords, account expiration, or other necessary communication. However, we reserve the right to send you information on our behalf and on behalf of third parties in connection with providing our Services. If you no longer want to receive information from us, you will need to close your account.

How You Can Delete or Correct Student Information or an Account

When LEAs create accounts for students, teachers, and parents, the LEA remains the sole owner of the educational data. All requests to review, delete or correct student or teacher information should be directed to the LEA. If we receive a request to delete or correct a user's data from a student, parent, or guardian, we will route such request to the LEA and will assist the LEA as needed to respond to authorized requests within a reasonable time frame and in compliance with applicable laws and regulations.

If a LEA requests deletion of data under the control of the LEA, we will promptly delete it, subject to any legal requirement to retain or transfer that data. Note that even following such deletion requests we may store secure backups until they are deleted in accordance with our document retention policy. We may also preserve information as part of an investigation into violations of the law or our terms of use.

Please note that any information you share with others on the website or content other users may have copied is not a part of your account and may not be deleted when you delete your account. If we share your data with one of our service providers, we will use our best efforts to cause such third party to delete such data when you delete your account.

How We Retain and Delete Your Data

Upon termination of your account, Imagine Learning will take commercially reasonable steps to delete any Personal Information from its live databases in a reasonable amount of time. We will retain Personal Information collected in connection with an account only for as long

as is necessary to provide the services to the account holder, as required by applicable laws or regulations or otherwise per the terms or a contract with a LEA.

Data may be returned to the LEA as directed by the agreement with the LEA. If no specific instructions are included in the agreement, the data will be returned or destroyed upon one of the following (i) after termination of our relationship with a LEA or LEA-authorized person, (ii) when it is no longer needed for the purpose for which it was provided, (iii) when advised to do so by the LEA, or (iv) as directed by agreement with the LEA. Data are returned in a digital, machine-readable format via a secure means of transmission.

We may further retain information for business practices based on our legitimate interest or legal purposes, such as secure electronic archives that are not readily accessible to users or maintained for disaster recovery and/or information technology backups. We may also maintain De-Identified Data, including usage data, for any purpose that is consistent with laws, regulations, and contractual obligations.

Even if your account is closed, information may remain in backup or archive records and we may retain certain data relevant to preventing fraud or future abuse or for legitimate business purposes, such as analysis of aggregated, non-personally-identifiable or De-Identified Data, account recovery, or if required by law. All retained data will continue to be subject to the applicable privacy policy for the Service.

Users in California

If you are a resident of the state of California, you have certain data protection rights. Imagine Learning aims to take reasonable steps to allow you to correct, amend, delete, or limit the use of your Personal Information. This section describes how we collect, use, and share Personal Information of California residents in operating our business and their rights with respect to that Personal Information. For purposes of this section, "Personal Information" has the meaning given in the California Consumer Privacy Act of 2018 ("CCPA") but does not include information exempted from the scope of the CCPA.

Your Rights

In certain circumstances, you have the following data protection rights:

- **Information:** You can request the following information about how we have collected and used your or your child's Personal Information during the past 12 months:
 - The categories of Personal Information that we have collected.
 - The categories of sources from which we collected Personal Information.
 - The business or commercial purpose for collecting and/or sharing Personal Information.
 - The categories of third parties with whom we share Personal Information.
 - Whether we have disclosed your Personal Information for a business purpose, and if so, the categories of Personal Information received by each category of third-party recipient.
 - Whether we've sold your Personal Information, and if so, the categories of Personal Information received by each category of third-party recipient.
- **Access:** You can request a copy of the Personal Information that we have collected about you during the past 12 months.
- **Deletion:** You can ask us to delete the Personal Information that we have collected from you. We will take reasonable measures to comply with a verifiable request, except when use of the Personal Information is necessary to comply with a legal obligation or for a legitimate business need permitted under the CCPA.
- **Opt-out of sales:** We do not currently sell Personal Information. If we plan to sell Personal Information, you will be notified and you can opt-out.
- **Nondiscrimination:** You are entitled to exercise the rights described above free from discrimination in the form of legally prohibited increases in the price or decreases in the quality of our Services.

How to Exercise Your Rights

You may exercise your California privacy rights described above as follows:

- Emailing privacy@imaginelearning.com
- Mailing Imagine Learning's Privacy Office at 8860 E Chaparral Road, Suite 100, Scottsdale, AZ 85250.

Consent to Transfer

The Services are operated in the United States. If you are located outside of the United States, please be aware that information we collect will be transferred to and processed in the United States. By using the Services, or providing us with any information, you fully understand and unambiguously consent to this transfer, processing, and storage of your information in the United States, a jurisdiction in which the privacy laws may not be as comprehensive as those in the country where you reside and/or are a citizen.

Important Information for Users in the European Economic Area

The following information only applies to users in the European Economic Area (EEA), provided that we are the controller of your Personal Information as described below.

Controller

If you use the Services through your employer, school, or another organization, that organization is the controller of your Personal Information. All questions or requests regarding your rights under European data protection legislation (including the rights described under Your rights below) or the processing of your Personal Information should be directed to the organization. Imagine Learning is the organization's processor and uses your Personal Information only as instructed by the organization and to the extent necessary to comply with applicable law.

If you do not use the Services through an organization, Imagine Learning is the controller of your Personal Information and can be reached using the contact details in "For More Information" section below.

Legal bases for processing

We process your Personal Information on the following legal bases:

Processing purpose	Legal basis
To provide the Services.	Processing is necessary to perform the contract governing our provision of the Services or to take steps that you request prior to requesting the Services.
To operate the websites. To send marketing communications. To create anonymous data for analytics. For compliance, fraud prevention, and safety.	These processing activities constitute our legitimate interests. We consider and balance the potential impact on our rights before we process your Personal Information for our legitimate interests. We do not use your Personal Information for activities where your data protection interests override these legitimate interests (unless we have your consent or are otherwise required or permitted to by law).
To comply with law.	Processing is necessary to comply with our legal obligations.
With your consent.	Processing is based on your consent. Where we rely on your consent you have the right to withdraw it anytime in the manner indicated at the time consent is requested.

Cross-border data transfer

Whenever we transfer your Personal Information out of the European Economic Area ("EEA") to countries not deemed by the European Commission to provide an adequate level of personal information protection, the transfer will be based on safeguards that allow us to conduct the transfer in accordance with the EEA's data protection laws. Such safeguards may include applying the European Commission model contracts for the transfer of Personal Information to third countries described [here](#). Please contact us for further information about any such transfers or the specific safeguards applied.

Your rights

You may ask us to take the following actions in relation to your Personal Information that we hold:

- **Access:** Provide you with information about our processing of your Personal Information and give you access to your Personal Information.
- **Correct:** Update or correct inaccuracies in your Personal Information.
- **Delete:** Delete your Personal Information.
- **Transfer:** Transfer a machine-readable copy of your Personal Information to you or a third party of your choice.
- **Restrict:** Restrict the processing of your Personal Information.
- **Object:** Object to our reliance on our legitimate interests as the legal basis of our processing your Personal Information, where that processing adversely impacts your legal rights.

You may send us these requests by contacting us at privacy@imaginelearning.com. We may request information from you to help us confirm your identity and process your request. Applicable law may require or permit us to reject part or all of your request. If we reject your request, we will tell you why, subject to legal restrictions. If you would like to submit a complaint about our use of your Personal Information or response to your requests regarding your Personal Information, you may contact us or submit a complaint to the data protection regulator in your jurisdiction. You can find your data protection regulator [here](#).

Retention

We will only retain your Personal Information for as long as necessary to fulfil the purposes we collected it for, including to continue providing our Services to LEAs you sent information to and for the purposes of archiving and satisfying any legal, accounting, or reporting requirements. To determine the appropriate retention period for personal information we consider the amount, nature, and sensitivity of the personal information, the potential risk of harm from unauthorized use or disclosure of your Personal Information, the purposes for which we process your Personal Information and whether we can achieve those purposes through other means, and the applicable legal requirements. In some circumstances we may anonymize your Personal Information (so that it can no longer be associated with you) in which case we may use this information indefinitely without further notice to you.

Notice of Changes to This Policy

We may occasionally update this Privacy Policy. You can see when it was last updated by looking at the new effective date at the top of this page.

If we make any significant changes, we'll post them prominently on our website 30 days prior to their effective date. Your continued use of the Services after a revision to the Privacy Policy indicates your acceptance and agreement to the current Privacy Policy. We recommend that you periodically review the Privacy Policy to make sure you understand and are up to date on how we are keeping your information safe.

Our Privacy Policy was last updated and is effective as of January 1, 2022.

For More Information

If you have any questions or comments regarding our Privacy Policy or our practices, please contact us at privacy@imaginelearning.com



imagine learning

empower potential™

Solutions

- Online Courses & Credit Recovery
- Core Curriculum
- Supplemental & Intervention
- Multilingual Learners
- Address Teacher & Staffing Gaps
- College & Career Readiness
- Assessment
- Summer School and Extended Learning
- Professional Development

Community

- Teachers' Lounge
- Inspiring Breakthroughs Blog
- Customer Stories

Products

- Courseware
 - Academic Integrity
- English Language Arts
- Math
- Science, Technology, and Engineering
- Assessment
- Spanish Language Arts and Literacy
- Social and Emotional Learning
- Products By Grade Level

Support

- Webinars
-  English Resources

- Customer Support
- Technical Requirements
- Accreditations
- Privacy Policy
- Accessibility
- FL VIP

Services

- Instructional Services
 - K-5 Certified Teaching Services
 - 6-12 Certified Teaching Services
- On-Demand Tutoring
- Small Group Targeted Instruction
- Speech Teletherapy
- Exceptional Education Services

Research

- Our Research
- Research Library
- ESSA Effectiveness

About

- Careers
- News & Press
- Leadership
- Contact Us



[Privacy Policy](#) [End User Terms of Service](#) [Accessibility](#) [Cookies Settings](#)

Copyright © 2024 Imagine Learning LLC.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/27/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certification does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis Towers Watson Northeast, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: Willis Towers Watson Certificate Center PHONE (A/C No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certifikates@willis.com	
	INSURER(S) AFFORDING COVERAGE NAIC #	
INSURED Imagine Learning LLC 8860 E Chaparral Rd Ste 100 Scottsdale, AZ 85250	INSURER A: Transportation Insurance Company 20494	
	INSURER B: National Fire Insurance Company of Hartford 20478	
	INSURER C: Continental Insurance Company 35289	
	INSURER D: Continental Casualty Company (Canada) B6613	
	INSURER E: Lloyd's Syndicate 2623 (Beazley Furlong Li) C2166	
INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** W32105393 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	Y	7012079707	01/01/2024	01/01/2025	EACH OCCURRENCE	\$ 1,000,000 ✓	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:					MED EXP (Any one person)	\$ 15,000	
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC					PERSONAL & ADV INJURY	\$ 1,000,000	
	OTHER:					GENERAL AGGREGATE	\$ 2,000,000 ✓	
						PRODUCTS - COMP/OP AGG	\$ 2,000,000	
							\$	
B	AUTOMOBILE LIABILITY		7012079710	01/01/2024	01/01/2025	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000 ✓	
	<input checked="" type="checkbox"/> ANY AUTO					BODILY INJURY (Per person)	\$	
	<input type="checkbox"/> OWNED AUTOS ONLY	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident)	\$	
	<input type="checkbox"/> HIRED AUTOS ONLY	<input type="checkbox"/> NON-OWNED AUTOS ONLY				PROPERTY DAMAGE (Per accident)	\$	
							\$	
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR		7012079741	01/01/2024	01/01/2025	EACH OCCURRENCE	\$ 10,000,000	
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE					AGGREGATE	\$ 10,000,000	
	DED <input checked="" type="checkbox"/> RETENTION \$ 10,000						\$	
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N	7012079724	01/01/2024	01/01/2025	<input checked="" type="checkbox"/> PER STATUTE	OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	No				N/A	E.L. EACH ACCIDENT	\$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000 ✓
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
D	Workers Compensation & Employers Liability		7012079738	01/01/2024	01/01/2025	EL - Each Accident	\$1,000,000	
						EL- Disease-Each Emp.	\$1,000,000	
						EL- Disease-Pol Limit	\$1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Named Insured previously Imagine Learning Inc and Edgenuity Inc
SEE ATTACHED

CERTIFICATE HOLDER School District of Clay County 900 Walnut Street Green Cove Springs, FL 32043	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

AGENCY CUSTOMER ID: _____
LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY Willis Towers Watson Northeast, Inc.		NAMED INSURED Imagine Learning LLC 8860 E Chaparral Rd Ste 100 Scottsdale, AZ 85250	
POLICY NUMBER See Page 1			
CARRIER See Page 1	NAIC CODE See Page 1	EFFECTIVE DATE: See Page 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

School District of Clay County is included as an Additional Insured as respects to General Liability.

INSURER AFFORDING COVERAGE: Lloyd's Syndicate 2623 (Beazley Furlong Limited) NAIC#: C2166
POLICY NUMBER: W35F95230101 EFF DATE: 10/20/2023 EXP DATE: 01/01/2025

TYPE OF INSURANCE:	LIMIT DESCRIPTION:	LIMIT AMOUNT:
Sexual Abuse / Misconduct	Limit of Liability	\$5,000,000
	Aggergate Limit	\$5,000,000
	Retention-Each Victim	\$200,000



STANDARD STUDENT DATA PRIVACY AGREEMENT

(NDPA Standard Version 1.0)

School Board of Clay County

and

Imagine Learning LLC

Provider Name

Version: 1r7

© 2021 Access 4 Learning (A4L) Community. All Rights Reserved.

This document may only be used by A4L Community members and may not be altered in any substantive manner.

This Student Data Privacy Agreement (“**DPA**”) is entered into on the date of full execution (the “**Effective Date**”) and is entered into by and between:

School Board of Clay County, located at 900 Walnut Street, Green Cove Springs, FL 32043
(the “**Local Education Agency**” or “**LEA**”)

And Imagine Learning LLC located at 8860 E. Chaparral Rd., Ste 100, Scottsdale, AZ 85250 (the “**Provider**”).
Provider Name Street, City, State

WHEREAS, the Provider is providing educational or digital services to LEA.

WHEREAS, the Provider and LEA recognize the need to protect personally identifiable student information and other regulated data exchanged between them as required by applicable laws and regulations, such as the Family Educational Rights and Privacy Act (“**FERPA**”) at 20 U.S.C. § 1232g (34 CFR Part 99); the Children’s Online Privacy Protection Act (“**COPPA**”) at 15 U.S.C. § 6501-6506 (16 CFR Part 312), applicable state privacy laws and regulations and

WHEREAS, the Provider and LEA desire to enter into this DPA for the purpose of establishing their respective obligations and duties in order to comply with applicable laws and regulations.

NOW THEREFORE, for good and valuable consideration, LEA and Provider agree as follows:

1. A description of the Services to be provided, the categories of Student Data that may be provided by LEA to Provider, and other information specific to this DPA are contained in the Standard Clauses hereto.
2. **Special Provisions. Check Box if Required**
 - If checked, the Supplemental State Terms and attached hereto as **Exhibit “G”** are hereby incorporated by reference into this DPA in their entirety.
 - If checked, LEA and Provider agree to the additional terms or modifications set forth in **Exhibit “H”**. (Optional)
 - If Checked, the Provider, has signed **Exhibit “E”** to the Standard Clauses, otherwise known as General Offer of Privacy Terms
3. In the event of a conflict between the SDPC Standard Clauses, the State or Special Provisions will control. In the event there is conflict between the terms of the DPA and any other writing, including, but not limited to the Service Agreement and Provider Terms of Service or Privacy Policy the terms of this DPA shall control.
4. This DPA shall stay in effect for three (3) years. **Exhibit “E”** will expire three (3) years from the date the original DPA was signed.
5. The services to be provided by Provider to LEA pursuant to this DPA are detailed in **Exhibit “A”** (the “**Services**”).
6. **Notices**. All notices or other communication required or permitted to be given hereunder may be given via e-mail transmission, or first-class mail, sent to the designated representatives below.

The designated representative for the LEA for this DPA is:

Name: Ethan Caren Title: Director of Information Services

Address: 900 Walnut Street, Green Cove Springs, FL 32043

Phone: 904-336-9603 Email: ethan.caren@myoneclay.net

The designated representative for the Provider for this DPA is:

Name: Privacy Office Title: N/A

Address: 8860 E. Chaparral Rd., Ste. 100, Scottsdale, AZ 85250

Phone: 877-725-4257 ext. 5953 Email: privacy@imaginelearning.com

IN WITNESS WHEREOF, LEA and Provider execute this DPA as of the Effective Date.

LEA, School Board of Clay County

By: _____

**Ethan
Caren**

Digital Signer: Ethan Caren
DN: C=US,
E=ethan.caren@myoneclay.net,
O=Clay County District
Schools, OU=ITS, CN=Ethan
Caren
Date: 2024.04.01
09:11:11 -04:00

Date: _____

Printed Name: Ethan Caren

Title/Position: Director of Information Services

Imagine Learning LLC

Name of Provider

DocuSigned by:

By: _____

Leslie Curtis

D9B1A55741094F4...

Date: March 28, 2024

Printed Name: Leslie Curtis

Title/Position: SVP, Chief Experience Officer

STANDARD CLAUSES

Version 1.0

ARTICLE I: PURPOSE AND SCOPE

1. **Purpose of DPA**. The purpose of this DPA is to describe the duties and responsibilities to protect Student Data including compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time. In performing the Services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the LEA. Provider shall be under the direct control and supervision of the LEA, with respect to its use of Student Data
2. **Student Data to Be Provided**. In order to perform the Services described above, LEA shall provide Student Data as identified in the Schedule of Data, attached hereto as **Exhibit “B”**.
3. **DPA Definitions**. The definition of terms used in this DPA is found in **Exhibit “C”**. In the event of a conflict, definitions used in this DPA shall prevail over terms used in any other writing, including, but not limited to the Service Agreement, Terms of Service, Privacy Policies etc.

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Student Data Property of LEA**. All Student Data transmitted to the Provider pursuant to the Service Agreement is and will continue to be the property of and under the control of the LEA. The Provider further acknowledges and agrees that all copies of such Student Data transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are subject to the provisions of this DPA in the same manner as the original Student Data. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data contemplated per the Service Agreement, shall remain the exclusive property of the LEA. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the LEA as it pertains to the use of Student Data, notwithstanding the above.
2. **Parent Access**. To the extent required by law the LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Education Records and/or Student Data correct erroneous information, and procedures for the transfer of student-generated content to a personal account, consistent with the functionality of services. Provider shall respond in a reasonably timely manner (and no later than forty-five (45) days from the date of the request or pursuant to the time frame required under state law for an LEA to respond to a parent or student, whichever is sooner) to the LEA's request for Student Data in a student's records held by the Provider to view or correct as necessary. In the event that a parent of a student or other individual contacts the Provider to review any of the Student Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the LEA, who will follow the necessary and proper procedures regarding the requested information.

3. **Separate Account**. If Student-Generated Content is stored or maintained by the Provider, Provider shall, at the request of the LEA, transfer, or provide a mechanism for the LEA to transfer, said Student-Generated Content to a separate account created by the student.
4. **Law Enforcement Requests**. Should law enforcement or other government entities (“Requesting Party(ies)”) contact Provider with a request for Student Data held by the Provider pursuant to the Services, the Provider shall notify the LEA in advance of a compelled disclosure to the Requesting Party, unless lawfully directed by the Requesting Party not to inform the LEA of the request.
5. **Subprocessors**. Provider shall enter into written agreements with all Subprocessors performing functions for the Provider in order for the Provider to provide the Services pursuant to the Service Agreement, whereby the Subprocessors agree to protect Student Data in a manner no less stringent than the terms of this DPA.

ARTICLE III: DUTIES OF LEA

1. **Provide Data in Compliance with Applicable Laws**. LEA shall provide Student Data for the purposes of obtaining the Services in compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time.
2. **Annual Notification of Rights**. If the LEA has a policy of disclosing Education Records and/or Student Data under FERPA (34 CFR § 99.31(a)(1)), LEA shall include a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest in its annual notification of rights.
3. **Reasonable Precautions**. LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted Student Data.
4. **Unauthorized Access Notification**. LEA shall notify Provider promptly of any known unauthorized access. LEA will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

ARTICLE IV: DUTIES OF PROVIDER

1. **Privacy Compliance**. The Provider shall comply with all applicable federal, state, and local laws, rules, and regulations pertaining to Student Data privacy and security, all as may be amended from time to time.
2. **Authorized Use**. The Student Data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services outlined in **Exhibit “A”** or stated in the Service Agreement and/or otherwise authorized under the statutes referred to herein this DPA.
3. **Provider Employee Obligation**. Provider shall require all of Provider’s employees and agents who have access to Student Data to comply with all applicable provisions of this DPA with respect

to the Student Data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to Student Data pursuant to the Service Agreement.

4. **No Disclosure.** Provider acknowledges and agrees that it shall not make any re-disclosure of any Student Data or any portion thereof, including without limitation, user content or other non-public information and/or personally identifiable information contained in the Student Data other than as directed or permitted by the LEA or this DPA. This prohibition against disclosure shall not apply to aggregate summaries of De-Identified information, Student Data disclosed pursuant to a lawfully issued subpoena or other legal process, or to Subprocessors performing services on behalf of the Provider pursuant to this DPA. Provider will not Sell Student Data to any third party.
5. **De-Identified Data:** Provider agrees not to attempt to re-identify De-Identified Student Data. De-Identified Data may be used by the Provider for those purposes allowed under FERPA and the following purposes: (1) assisting the LEA or other governmental agencies in conducting research and other studies; and (2) research and development of the Provider's educational sites, services, or applications, and to demonstrate the effectiveness of the Services; and (3) for adaptive learning purpose and for customized student learning. Provider's use of De-Identified Data shall survive termination of this DPA or any request by LEA to return or destroy Student Data. Except for Subprocessors, Provider agrees not to transfer de-identified Student Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to the LEA who has provided prior written consent for such transfer. Prior to publishing any document that names the LEA explicitly or indirectly, the Provider shall obtain the LEA's written approval of the manner in which De-Identified Data is presented.
6. **Disposition of Data.** Upon written request from the LEA, Provider shall dispose of or provide a mechanism for the LEA to transfer Student Data obtained under the Service Agreement, within sixty (60) days of the date of said request and according to a schedule and procedure as the Parties may reasonably agree. Upon termination of this DPA, if no written request from the LEA is received, Provider shall dispose of all Student Data after providing the LEA with reasonable prior notice. The duty to dispose of Student Data shall not extend to Student Data that had been De-Identified or placed in a separate student account pursuant to section II 3. The LEA may employ a **"Directive for Disposition of Data"** form, a copy of which is attached hereto as **Exhibit "D"**. If the LEA and Provider employ **Exhibit "D"**, no further written request or notice is required on the part of either party prior to the disposition of Student Data described in **Exhibit "D"**.
7. **Advertising Limitations.** Provider is prohibited from using, disclosing, or selling Student Data to (a) inform, influence, or enable Targeted Advertising; or (b) develop a profile of a student, family member/guardian or group, for any purpose other than providing the Service to LEA. This section does not prohibit Provider from using Student Data (i) for adaptive learning or customized student learning (including generating personalized learning recommendations); or (ii) to make product recommendations to teachers or LEA employees; or (iii) to notify account holders about new education product updates, features, or services or from otherwise using Student Data as permitted in this DPA and its accompanying exhibits

ARTICLE V: DATA PROVISIONS

1. **Data Storage.** Where required by applicable law, Student Data shall be stored within the United States. Upon request of the LEA, Provider will provide a list of the locations where Student Data is stored.
2. **Audits.** No more than once a year, or following unauthorized access, upon receipt of a written request from the LEA with at least ten (10) business days' notice and upon the execution of an appropriate confidentiality agreement, the Provider will allow the LEA to audit the security and privacy measures that are in place to ensure protection of Student Data or any portion thereof as it pertains to the delivery of services to the LEA. The Provider will cooperate reasonably with the LEA and any local, state, or federal agency with oversight authority or jurisdiction in connection with any audit or investigation of the Provider and/or delivery of Services to students and/or LEA, and shall provide reasonable access to the Provider's facilities, staff, agents and LEA's Student Data and all records pertaining to the Provider, LEA and delivery of Services to the LEA. Failure to reasonably cooperate shall be deemed a material breach of the DPA.
3. **Data Security.** The Provider agrees to utilize administrative, physical, and technical safeguards designed to protect Student Data from unauthorized access, disclosure, acquisition, destruction, use, or modification. The Provider shall adhere to any applicable law relating to data security. The provider shall implement an adequate Cybersecurity Framework based on one of the nationally recognized standards set forth in **Exhibit "F"**. Exclusions, variations, or exemptions to the identified Cybersecurity Framework must be detailed in an attachment to **Exhibit "H"**. Additionally, Provider may choose to further detail its security programs and measures that augment or are in addition to the Cybersecurity Framework in **Exhibit "F"**. Provider shall provide, in the Standard Schedule to the DPA, contact information of an employee who LEA may contact if there are any data security concerns or questions.
4. **Data Breach.** In the event of an unauthorized release, disclosure or acquisition of Student Data that compromises the security, confidentiality or integrity of the Student Data maintained by the Provider the Provider shall provide notification to LEA within seventy-two (72) hours of confirmation of the incident, unless notification within this time limit would disrupt investigation of the incident by law enforcement. In such an event, notification shall be made within a reasonable time after the incident. Provider shall follow the following process:
 - (1) The security breach notification described above shall include, at a minimum, the following information to the extent known by the Provider and as it becomes available:
 - i. The name and contact information of the reporting LEA subject to this section.
 - ii. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
 - iii. If the information is possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3) the date range within which the breach occurred. The notification shall also include the date of the notice.

- iv. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided; and
 - v. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
- (2) Provider agrees to adhere to all federal and state requirements with respect to a data breach related to the Student Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
 - (3) Provider further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of Student Data or any portion thereof, including personally identifiable information and agrees to provide LEA, upon request, with a summary of said written incident response plan.
 - (4) LEA shall provide notice and facts surrounding the breach to the affected students, parents or guardians.
 - (5) In the event of a breach originating from LEA's use of the Service, Provider shall cooperate with LEA to the extent necessary to expeditiously secure Student Data.

ARTICLE VI: GENERAL OFFER OF TERMS

Provider may, by signing the attached form of "General Offer of Privacy Terms" (General Offer, attached hereto as **Exhibit "E"**), be bound by the terms of **Exhibit "E"** to any other LEA who signs the acceptance on said Exhibit. The form is limited by the terms and conditions described therein.

ARTICLE VII: MISCELLANEOUS

1. **Termination.** In the event that either Party seeks to terminate this DPA, they may do so by mutual written consent so long as the Service Agreement has lapsed or has been terminated. Either party may terminate this DPA and any service agreement or contract if the other party breaches any terms of this DPA.
2. **Effect of Termination Survival.** If the Service Agreement is terminated, the Provider shall destroy all of LEA's Student Data pursuant to Article IV, section 6.
3. **Priority of Agreements.** This DPA shall govern the treatment of Student Data in order to comply with the privacy protections, including those found in FERPA and all applicable privacy statutes identified in this DPA. In the event there is conflict between the terms of the DPA and the Service Agreement, Terms of Service, Privacy Policies, or with any other bid/RFP, license agreement, or writing, the terms of this DPA shall apply and take precedence. In the event of a conflict between

Exhibit “H”, the SDPC Standard Clauses, and/or the Supplemental State Terms, **Exhibit “H”** will control, followed by the Supplemental State Terms. Except as described in this paragraph herein, all other provisions of the Service Agreement shall remain in effect.

4. **Entire Agreement.** This DPA and the Service Agreement constitute the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior communications, representations, or agreements, oral or written, by the Parties relating thereto. This DPA may be amended and the observance of any provision of this DPA may be waived (either generally or in any particular instance and either retroactively or prospectively) only with the signed written consent of both Parties. Neither failure nor delay on the part of any Party in exercising any right, power, or privilege hereunder shall operate as a waiver of such right, nor shall any single or partial exercise of any such right, power, or privilege preclude any further exercise thereof or the exercise of any other right, power, or privilege.
5. **Severability.** Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the Parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.
6. **Governing Law: Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF THE LEA, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS FOR THE COUNTY OF THE LEA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS DPA OR THE TRANSACTIONS CONTEMPLATED HEREBY.
7. **Successors Bound:** This DPA is and shall be binding upon the respective successors in interest to Provider in the event of a merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of such business. In the event that the Provider sells, merges, or otherwise disposes of its business to a successor during the term of this DPA, the Provider shall provide written notice to the LEA no later than sixty (60) days after the closing date of sale, merger, or disposal. Such notice shall include a written, signed assurance that the successor will assume the obligations of the DPA and any obligations with respect to Student Data within the Service Agreement. The LEA has the authority to terminate the DPA if it disapproves of the successor to whom the Provider is selling, merging, or otherwise disposing of its business.
8. **Authority.** Each party represents that it is authorized to bind to the terms of this DPA, including confidentiality and destruction of Student Data and any portion thereof contained therein, all related or associated institutions, individuals, employees or contractors who may have access to the Student Data and/or any portion thereof.

9. **Waiver**. No delay or omission by either party to exercise any right hereunder shall be construed as a waiver of any such right and both parties reserve the right to exercise any such right from time to time, as often as may be deemed expedient.

EXHIBIT "A"

DESCRIPTION OF SERVICES

Vendors/Providers - please list all applications you support that are in use at the District, describe what your application does and what grade levels and/or staff groups will access your software (as applicable).

Imagine Learning provides digital K-12 curriculum and related education services to the LEA. Products include Imagine Edgenuity for grades 6-12 (f/k/a Courseware). The product will be access by administrators, teachers and students.

EXHIBIT "B"
SCHEDULE OF DATA

Category of Data	Elements	Check if Used by Your System
Application Technology Meta Data	IP Addresses of users, Use of cookies, etc.	<input checked="" type="checkbox"/>
	Other application technology meta data-Please specify: Single-Sign On (SSO) IDs are used only if the LEA Elects to use SSO	<input checked="" type="checkbox"/>
Application Use Statistics	Meta data on user interaction with application	<input type="checkbox"/>
Assessment	Standardized test scores	<input checked="" type="checkbox"/> Optional
	Observation data	<input type="checkbox"/>
	Other assessment data-Please specify: In-product placement and progress assessments are used to adapt content to individual student needs.	<input checked="" type="checkbox"/>
Attendance	Student school (daily) attendance data	<input type="checkbox"/>
	Student class attendance data	<input checked="" type="checkbox"/>
Communications	Online communications captured (emails, blog entries)	<input checked="" type="checkbox"/>
Conduct	Conduct or behavioral data	<input type="checkbox"/>
Demographics	Date of Birth	<input checked="" type="checkbox"/> Optional
	Place of Birth	<input checked="" type="checkbox"/> Optional
	Gender	<input checked="" type="checkbox"/> Optional
	Ethnicity or race	<input checked="" type="checkbox"/> Optional
	Language information (native, or primary language spoken by student)	<input checked="" type="checkbox"/> Optional

Category of Data	Elements	Check if Used by Your System
	Other demographic information-Please specify:	<input type="checkbox"/>
Enrollment	Student school enrollment	<input checked="" type="checkbox"/>
	Student grade level	<input checked="" type="checkbox"/>
	Homeroom	<input type="checkbox"/>
	Guidance counselor	<input type="checkbox"/>
	Specific curriculum programs	<input checked="" type="checkbox"/>
	Year of graduation	<input type="checkbox"/>
	Other enrollment information-Please specify:	<input type="checkbox"/>
Parent/Guardian Contact Information	Address	<input type="checkbox"/>
	Email	<input checked="" type="checkbox"/> Optional
	Phone	<input checked="" type="checkbox"/> Optional
Parent/Guardian ID	Parent ID number (created to link parents to students)	<input checked="" type="checkbox"/> Optional
Parent/Guardian Name	First and/or Last	<input checked="" type="checkbox"/> Optional
Schedule	Student scheduled courses	<input type="checkbox"/>
	Teacher names	<input checked="" type="checkbox"/>
Special Indicator	English language learner information	<input checked="" type="checkbox"/> Optional
	Low income status	<input checked="" type="checkbox"/> Optional
	Medical alerts/ health data	<input type="checkbox"/>

Category of Data	Elements	Check if Used by Your System
	Student disability information	<input checked="" type="checkbox"/> Optional
	Specialized education services (IEP or 504)	<input checked="" type="checkbox"/> Optional
	Living situations (homeless/foster care)	<input checked="" type="checkbox"/> Optional
	Other indicator information-Please specify:	<input type="checkbox"/>
Student Contact Information	Address	<input checked="" type="checkbox"/> Optional
	Email	<input checked="" type="checkbox"/> Optional
	Phone	<input checked="" type="checkbox"/> Optional
Student Identifiers	Local (School district) ID number	<input checked="" type="checkbox"/>
	State ID number	<input checked="" type="checkbox"/> Optional
	Provider/App assigned student ID number	<input checked="" type="checkbox"/>
	Student app username	<input checked="" type="checkbox"/>
	Student app passwords	<input checked="" type="checkbox"/>
Student Name	First and/or Last	<input checked="" type="checkbox"/>
Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)	<input checked="" type="checkbox"/>
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	<input type="checkbox"/>
Student Survey Responses	Student responses to surveys or questionnaires	<input type="checkbox"/>
Student work	Student generated content; writing, pictures, etc.	<input checked="" type="checkbox"/>

Category of Data	Elements	Check if Used by Your System
	Other student work data -Please specify:	<input type="checkbox"/>
Transcript	Student course grades	<input type="checkbox"/>
	Student course data	<input type="checkbox"/>
	Student course grades/ performance scores	<input checked="" type="checkbox"/>
	Other transcript data - Please specify:	<input type="checkbox"/>
Transportation	Student bus assignment	<input type="checkbox"/>
	Student pick up and/or drop off location	<input type="checkbox"/>
	Student bus card ID number	<input type="checkbox"/>
	Other transportation data – Please specify:	<input type="checkbox"/>
Other	<p>Please list each additional data element used, stored, or collected by your application:</p> <p>Additional collected data may include:</p> <ul style="list-style-type: none"> - Assessment results and scores, including academic performance and placement - Curriculum progress - Audio recordings (e.g., students reading passages -Certificates of achievement 	<input checked="" type="checkbox"/> Please visit https://imaginelearning.com/privacy for our Privacy Policy and a related FAQ.
None	No Student Data collected at this time. Provider will immediately notify LEA if this designation is no longer applicable.	<input type="checkbox"/>

EXHIBIT “C”

DEFINITIONS

De-Identified Data and De-Identification: Records and information are considered to be De-Identified when all personally identifiable information has been removed or obscured, such that the remaining information does not reasonably identify a specific individual, including, but not limited to, any information that, alone or in combination is linkable to a specific student and provided that the educational agency, or other party, has made a reasonable determination that a student’s identity is not personally identifiable, taking into account reasonable available information.

Educational Records: Educational Records are records, files, documents, and other materials directly related to a student and maintained by the school or local education agency, or by a person acting for such school or local education agency, including but not limited to, records encompassing all the material kept in the student’s cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement, and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

Metadata: means information that provides meaning and context to other data being collected; including, but not limited to: date and time records and purpose of creation Metadata that have been stripped of all direct and indirect identifiers are not considered Personally Identifiable Information.

Operator: means the operator of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for K–12 school purposes. Any entity that operates an internet website, online service, online application, or mobile application that has entered into a signed, written agreement with an LEA to provide a service to that LEA shall be considered an “operator” for the purposes of this section.

Originating LEA: An LEA who originally executes the DPA in its entirety with the Provider.

Provider: For purposes of the DPA, the term “Provider” means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Student Data. Within the DPA the term “Provider” includes the term “Third Party” and the term “Operator” as used in applicable state statutes.

Student Generated Content: The term “Student-Generated Content” means materials or content created by a student in the services including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, videos, and account information that enables ongoing ownership of student content.

School Official: For the purposes of this DPA and pursuant to 34 CFR § 99.31(b), a School Official is a contractor that: (1) Performs an institutional service or function for which the agency or institution would otherwise use employees; (2) Is under the direct control of the agency or institution with respect to the use and maintenance of Student Data including Education Records; and (3) Is subject to 34 CFR § 99.33(a) governing the use and re-disclosure of Personally Identifiable Information from Education Records.

Service Agreement: Refers to the Contract, Purchase Order or Terms of Service or Terms of Use.

Student Data: Student Data includes any data, whether gathered by Provider or provided by LEA or its users, students, or students' parents/guardians, that is descriptive of the student including, but not limited to, information in the student's educational record or email, first and last name, birthdate, home or other physical address, telephone number, email address, or other information allowing physical or online contact, discipline records, videos, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security numbers, biometric information, disabilities, socioeconomic information, individual purchasing behavior or preferences, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, geolocation information, parents' names, or any other information or identification number that would provide information about a specific student. Student Data includes Meta Data. Student Data further includes "Personally Identifiable Information (PII)," as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law. Student Data shall constitute Education Records for the purposes of this DPA, and for the purposes of federal, state, and local laws and regulations. Student Data as specified in **Exhibit "B"** is confirmed to be collected or processed by the Provider pursuant to the Services. Student Data shall not constitute that information that has been anonymized or De-Identified, or anonymous usage data regarding a student's use of Provider's services.

Subprocessor: For the purposes of this DPA, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than LEA or Provider, who Provider uses for data collection, analytics, storage, or other service to operate and/or improve its service, and who has access to Student Data.

Subscribing LEA: An LEA that was not party to the original Service Agreement and who accepts the Provider's General Offer of Privacy Terms.

Targeted Advertising: means presenting an advertisement to a student where the selection of the advertisement is based on Student Data or inferred over time from the usage of the operator's Internet web site, online service or mobile application by such student or the retention of such student's online activities or requests over time for the purpose of targeting subsequent advertisements. "Targeted Advertising" does not include any advertising to a student on an Internet web site based on the content of the web page or in response to a student's response or request for information or feedback.

Third Party: The term "Third Party" means a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Education Records and/or Student Data, as that term is used in some state statutes. However, for the purpose of this DPA, the term "Third Party" when used to indicate the provider of digital educational software or services is replaced by the term "Provider."

EXHIBIT "D"

DIRECTIVE FOR DISPOSITION OF DATA

School Board of Clay County Provider to dispose of data obtained by Provider pursuant to the terms of the Service Agreement between LEA and Provider. The terms of the Disposition are set forth below:

1. Extent of Disposition

Disposition is partial. The categories of data to be disposed of are set forth below or are found in an attachment to this Directive:

Categories of data

Disposition is Complete. Disposition extends to all categories of data.

2. Nature of Disposition

Disposition shall be by destruction or deletion of data.

Disposition shall be by a transfer of data. The data shall be transferred to the following site as follows:

Describe here or attach special instructions

3. Schedule of Disposition

Data shall be disposed of by the following date:

As soon as commercially practicable.

By Date:

4. Signature

Authorized Representative of LEA

Date

5. Verification of Disposition of Data

Authorized Representative of Provider

Date

EXHIBIT "E"
GENERAL OFFER OF PRIVACY TERMS

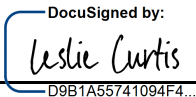
1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and Clay County District Schools ("Originating LEA") which is dated _____ to any other LEA ("Subscribing LEA") who accepts this General Offer of Privacy Terms ("General Offer") through its signature below. This General Offer shall extend only to privacy protections, and Provider's signature shall not necessarily bind Provider to other terms, such as price, term, or schedule of services, or to any other provision not addressed in this DPA. The Provider and the Subscribing LEA may also agree to change the data provided by Subscribing LEA to the Provider to suit the unique needs of the Subscribing LEA. The Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statutes; (2) a material change in the services and products listed in the originating Service Agreement; or three (3) years after the date of Provider's signature to this Form. Subscribing LEAs should send the signed **Exhibit "E"** to Provider at the following email address:

Bids@imaginelearning.com

Imagine Learning LLC _____

Name of Provider

BY:  _____ Date: March 28, 2024

Printed Name: Leslie Curtis Title/Position: SVP, Chief Experience Officer

2. Subscribing LEA

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA and the Provider shall therefore be bound by the same terms of this DPA for the term of the DPA between School Board of Clay County (Originating LEA) and the Provider. ****PRIOR TO ITS EFFECTIVENESS, SUBSCRIBING LEA MUST DELIVER NOTICE OF ACCEPTANCE TO PROVIDER PURSUANT TO ARTICLE VII, SECTION 5. ****

BY: _____ Date: _____

Printed Name: _____ Title/Position: _____

SCHOOL DISTRICT NAME: _____

DESIGNATED REPRESENTATIVE OF LEA:

Name: _____ Title: _____

Address: _____

Telephone Number: _____ Email: _____

EXHIBIT “F”**DATA SECURITY REQUIREMENTS****Adequate Cybersecurity Frameworks****2/24/2020**

The Education Security and Privacy Exchange (“Edspex”) works in partnership with the Student Data Privacy Consortium and industry leaders to maintain a list of known and credible cybersecurity frameworks which can protect digital learning ecosystems chosen based on a set of guiding cybersecurity principles* (“Cybersecurity Frameworks”) that may be utilized by Provider.

Cybersecurity Frameworks

Check those that apply	MAINTAINING ORGANIZATION/GROUP	FRAMEWORK(S)
<input type="checkbox"/>	National Institute of Standards and Technology (NIST)	NIST Cybersecurity Framework Version 1.1
<input type="checkbox"/>	National Institute of Standards and Technology (NIST)	NIST SP 800-53, Cybersecurity Framework for Improving Critical Infrastructure Cybersecurity (CSF), Special Publication 800-171
<input checked="" type="checkbox"/>	International Standards Organization (ISO)	Information technology — Security techniques — Information security management systems (ISO 27000 series)
<input type="checkbox"/>	Secure Controls Framework Council, LLC	Security Controls Framework (SCF)
<input checked="" type="checkbox"/>	Center for Internet Security (CIS)	CIS Critical Security Controls (CSC, CIS Top 20)
<input type="checkbox"/>	Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S))	Cybersecurity Maturity Model Certification (CMMC, ~FAR/DFAR)

Please visit <http://www.edspex.org> for further details about the noted frameworks.

*Cybersecurity Principles used to choose the Cybersecurity Frameworks are located here

EXHIBIT "G"**Supplemental SDPC State Terms for [State]**Version 1

Providers/Operators are to comply with the Florida Student Online Personal Information Protection Act, Florida Statute 1006.1494. This Act (effective 7/1/2023 and initiated from SB 662 in 2023) establishes new and different terms than those outlined in the National Student Data Privacy Agreement contained herein. Providers/Operators are subject to all of the Act's privacy terms, including, but not limited to the following:

1) An operator may not knowingly do any of the following:

a) Engage in targeted advertising on the operator's site, service, or application, or targeted advertising on any other site, service, or application if the targeting of the advertising is based on any information, including covered information and persistent unique identifiers, which the operator has acquired because of the use of that operator's site, service or application for K-12 school purposes.

b) Use covered information, including persistent unique identifiers, created, or gathered by the operator's site service, or application to amass a profile of a student, except in furtherance of k-12 school purposes.

c) Share, sell, or rent a student's information, including covered information

2) An operator shall do all the following:

a) Collect no more covered information that is reasonably necessary to operate an Internet website, online service, online application, or mobile application....

b) Implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information which are designed to protect it from unauthorized access destruction, use, modification, or disclosure.

c) Unless a parent or guardian expressly consents to the operator retaining a student's covered information, delete the covered information at the conclusion of the course, or corresponding program and no later than 90 days after a student is no longer enrolled in a school within the district, upon notice by the school district.

EXHIBIT "H"

Additional Terms or Modifications

Version _____

LEA and Provider agree to the following additional terms and modifications:
(This is a free text field that the parties can use to add or modify terms in or to the DPA. If there are no additional or modified terms, this field should read "None." 618-1/4715859.1)

NONE

