

MASTER SUBSCRIPTION AGREEMENT

THIS SUBSCRIPTION AGREEMENT (this “Agreement”) sets forth the terms and conditions pursuant to which Schoology, Inc. (“Schoology”) provides its end user subscribers (each, a “Subscriber”) with access to Schoology’s proprietary learning management system and secure academic social network more particularly described on Schoology’s website located at www.schoology.com (the “Schoology System”). Subscriber may place orders under this Agreement by submitting separate ordering document(s) specifying the services to be provided by Schoology hereunder (each, a “Sales Order”). Each Sales Order shall incorporate the terms and conditions of and be governed by this Agreement. Submitting or acceptance of a Sales Order or Subscriber’s use of or access to the Schoology System shall constitute Subscriber’s unconditional acceptance of this Agreement. The Sales Order can be accepted only in accordance with the terms of this Agreement. Additional or different terms proposed by Subscriber will not be applicable unless accepted in writing by Schoology. No change, modification, or revision of the Sales Order or this Agreement shall be effective unless in writing and signed by both Subscriber and Schoology. This Agreement shall be effective upon the earlier of the date of Subscriber’s submission or acceptance of any Sales Order or the date of Subscriber’s first use of or access to the Schoology System (the “Effective Date”). If there is a conflict between the terms of this Agreement and the terms of a Sales Order, the terms of this Agreement will control.

1. **Grant of License; Subscription.** Subject to the terms and conditions of this Agreement and the applicable Sales Order, Schoology hereby grants to Subscriber a limited, non-exclusive, non-transferable, license to access and use the Schoology System during the term specified in the Sales Order, including any renewals thereof (the “Term”). Subscriber hereby accepts the subscription to the Schoology System more particularly described in the Sales Order (the “Subscription”). Subscriber shall not (a) copy the Schoology System or any part, feature, function or user interface thereof (b) use the Schoology System to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights (c) attempt to gain unauthorized access to the Schoology System or its related systems or networks; and (d) reverse engineer the Schoology System (to the extent such restriction is permitted by law).

2. **Billing and Payment.** Subscriber shall pay all fees specified in the applicable Sales Order. Schoology shall send an invoice to Subscriber, and Subscriber shall pay the full amount due within 30 days of the invoice date by mailing a check or depositing the amount due via wire transfer (in which case Subscriber must contact Schoology at billing@schoology.com for wire transfer instructions). Except as otherwise specified in a Sales Order, (a) all payment obligations are non-cancelable and all fees paid are non-refundable (including upon termination hereof), (b) quantities purchased cannot be decreased during the relevant subscription Term, and (c) the Subscription fees indicated in a Sales Order are based on the Subscriptions purchased and not actual usage up to the number of Subscriptions purchased. If Subscriber uses more than the number of Subscriptions purchased as indicated in the Sales Order, Schoology may submit an amended invoice for the amount of such excess usage, and Subscriber shall pay the fees applicable to the variance within 30 days of the invoice date. Except to the extent fixed in the Sales Order, Schoology’s Subscription fee is subject to change by Schoology without notice and in its sole discretion. Subscriber shall be solely responsible for any taxes, including personal property taxes, or local licensing fees resulting from Subscriber’s Subscription or in connection with Schoology’s delivery of Schoology System under this Agreement, provided that Schoology shall be responsible for taxes on its net income derived from this Agreement.

3. **Ownership.** All right, title, and interest in and to the Schoology System and all underlying ideas, concepts, procedures, processes, principles, know-how, methods of operation, images, source code,

and specifications related thereto, together with any updates, enhancements, modifications, improvements or derivative works thereto, in each case including all copyrights, trade names, trademarks and other intellectual property rights therein (collectively, the “Schoolology IP”), is, and shall remain the sole and exclusive property of Schoolology. Certain Schoolology IP is protected by United States copyright laws (and other laws relating to intellectual property). The Schoolology System is licensed, not sold, to Subscriber hereunder and, except for the express limited license rights granted to Subscriber in accordance with the terms of this Agreement, no right, title or interest in or to the Schoolology IP is granted or otherwise transferred by Schoolology in connection with this Agreement. Schoolology shall have, and Subscriber hereby grants to Schoolology, a royalty-free, perpetual, worldwide, non-exclusive, irrevocable right to use or incorporate into the Schoolology System and/or any specifications, without restriction or obligation, any suggestions, enhancements, recommendations or other feedback provided by Subscriber with respect to the Schoolology System.

4. **Enterprise Services.** Subscriber may procure implementation, training or other professional services (“Enterprise Services”) in a Sales Order. Schoolology will use commercially reasonable efforts to perform such Enterprise Services and unless otherwise expressly agreed in a Sales Order, all Enterprise Services will be deemed accepted upon delivery.

5. **Confidential Information.** (a) “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes, without limitation, business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by the Disclosing Party. Further, Confidential Information of Schoolology includes the Schoolology IP, including any updates, enhancements, modifications, improvements and derivative works thereto.. In addition, any data uploaded by Subscriber to the Schoolology System (hereinafter “Subscriber Data”) and “FERPA Records” (as defined below) are confidential to Subscriber. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party without use of or reference to the Disclosing Party’s Confidential Information.

(b) The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to its employees, agents and contractors to the extent necessary to perform its obligations under this Agreement.

(c) The parties acknowledge that (i) Confidential Information may include personally identifiable information from education records that are subject to the Family Educational Rights and Privacy Act, as amended (“FERPA Records”); and (ii) to the extent that Confidential Information includes FERPA Records, Schoolology will be considered a “School Official” (as that term is used in FERPA and its implementing regulations) and will comply with the requirements and obligations of School Officials under FERPA. Each party represents and warrants to the other party that it will comply with all provisions of FERPA applicable to such party’s performance hereunder.

(d) The parties also acknowledge that Confidential Information may include personally identifiable information from children under the age of 13, subject to the Children’s Online Privacy Protection Act and related regulations (“COPPA”). Subscriber acknowledges that it will act as agent for the parents of students under the age of 13 for purposes of COPPA. Schoolology presumes that Subscriber’s authorization is based

on having obtained parental consent where necessary. Subscriber further acknowledges that it has read, fully understands, and agrees to abide by Schoology's Privacy Policy & Terms of Use, available at www.schoology.com and as may be revised from time-to-time, incorporated by reference herein.

6. **Subscriber Information.** As between Schoology and Subscriber, Subscriber owns all information regarding its schools or districts that it uploads to the Schoology System. Schoology shall implement commercially reasonable administrative, technical, and physical safeguards for the protection of the security, confidentiality and integrity of Subscriber Data.

7. **Renewals; Termination.** Unless otherwise specified in the Sales Order: the Term shall automatically renew for 1 year periods, unless Subscriber provides written notice of non-renewal to Schoology at least thirty (30) days prior to the end of the relevant Term. A party may terminate this Agreement for cause upon 30 days written notice to the other party in the event that the other party commits a material breach of its obligations under this Agreement and such breach remains uncured at the expiration of such notice period. Upon the termination or expiration of this Agreement for any reason, Schoology shall, for a period of 30 days following such termination or expiration, maintain student information and permit Subscriber with access to such data, in Schoology-augmented reporting form, including norms and learning statements. The sections titled "Billing and Payment," "Ownership," "Confidentiality," "Renewals; Termination," "Limitation of Liability," "Disclaimers," "Indemnification," "Miscellaneous" shall survive any termination or expiration of this Agreement.

8. **Support & Maintenance.** Schoology shall at no cost provide to Subscriber updates, enhancements, modifications, improvements in and to any products purchased by Subscriber under the applicable Sales Order, and such updates, enhancements, modifications, improvements shall be subject to the terms and conditions of this Agreement. Schoology has system maintenance periods throughout the year that will affect Subscriber's ability to interact with the Schoology System. Schoology shall use commercially reasonable efforts to notify Subscriber in advance of any disruptions.

9. **Limited Warranty.** Schoology warrants to Subscriber that, during the applicable Term: (a) this Agreement, the Sales Order and any specifications furnished by Schoology will accurately describe the applicable administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of the Subscriber data, and (b) the Schoology System, when used in accordance with the specifications furnished by Schoology, will perform substantially in accordance with such specifications. In the event the Schoology System fails to conform to the foregoing warranties, Schoology shall use commercially reasonable efforts to correct such non-conformity. If Schoology is unable to correct the non-conformity, Schoology shall terminate this Agreement and refund to Subscriber any prepaid Subscription fees covering the remainder of the Term after the effective date of termination. The limited remedies described in this Section are Schoology's sole obligations and Subscriber's exclusive remedies for any breach of the limited warranties set forth herein. The limited warranties provided in this Section are void if the non-conformity results from (x) use of the Schoology System in connection with software or hardware not compatible with the Schoology System or not meeting the technical specifications furnished by Schoology; (y) improper or inadequate maintenance of Subscriber's equipment or software; or (z) inadequate Internet connectivity or bandwidth. Subscriber is solely responsible for the results obtained and decisions made from its use of the Schoology System. The Schoology System may include open source software components and use of such components may be subject to additional terms and conditions.

10. **Disclaimers.** (a) EXCEPT FOR THE EXPRESS LIMITED WARRANTIES PROVIDED IN SECTION 9, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SCHOLOGY SYSTEM IS PROVIDED "AS-IS" AND WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, QUALITY, PRODUCTIVENESS OR CAPACITY, OR THAT THE OPERATION OF THE SOFTWARE INCLUDED WITHIN THE SCHOLOGY SYSTEM WILL BE ERROR FREE. ALL OTHER

WARRANTIES RELATING TO THE SCHOOLOGY SYSTEM OR THIS AGREEMENT ARE HEREBY EXPRESSLY DISCLAIMED BY SCHOOLOGY. EXCEPT AS PROVIDED HEREIN, THE ENTIRE RISK AND LIABILITY ARISING OUT OF THE USE OF THE SCHOOLOGY SYSTEM REMAINS WITH SUBSCRIBER, INCLUDING, BUT NOT LIMITED TO, WHEN SUBSCRIBER'S PRACTICES ARE INCONSISTENT WITH *THE STANDARDS FOR EDUCATIONAL AND PSYCHOLOGICAL TESTING* (1999) BY THE AMERICAN EDUCATIONAL RESEARCH ASSOCIATION. WITHOUT LIMITING THE FOREGOING, THERE IS NO WARRANTY FOR PERFORMANCE ISSUES (A) CAUSED BY FACTORS OUTSIDE OF SCHOOLOGY'S REASONABLE CONTROL; (B) RESULTING FROM ANY ACTION OR INACTION OF SUBSCRIBER OR SUBSCRIBER'S THIRD PARTIES; OR (C) RESULTING FROM SCHEDULED MAINTENANCE PERIODS.

(b) SCHOOLOGY DOES NOT AND CANNOT CONTROL PERFORMANCE OF THE SCHOOLOGY SYSTEM BASED ON THE FLOW OF DATA TO OR FROM SCHOOLOGY'S NETWORK AND OTHER PORTIONS OF THE INTERNET, WHICH DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT SUBSCRIBER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH SCHOOLOGY WILL USE COMMERCIALY REASONABLE EFFORTS TO REMEDY AND AVOID SUCH EVENTS, SCHOOLOGY CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, SCHOOLOGY DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

(c) IN CONNECTION WITH USING THE SCHOOLOGY SYSTEM, SUBSCRIBER MAY PURCHASE PRODUCTS AND/OR SERVICES FROM, AND/OR PARTICIPATE IN PROMOTIONS OF, THIRD PARTIES. TRANSACTIONS RELATING TO ANY SUCH THIRD PARTY PRODUCTS, SERVICES AND/OR PROMOTIONS, AND ANY TERMS ASSOCIATED THEREWITH, ARE SOLELY BETWEEN SUBSCRIBER AND THE RELEVANT THIRD PARTIES. SCHOOLOGY DOES NOT SUPPORT, ENDORSE OR MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING, ANY SUCH THIRD PARTY PRODUCTS, SERVICES AND/OR PROMOTIONS, AND IN NO EVENT WILL SCHOOLOGY HAVE ANY LIABILITY WHATSOEVER IN CONNECTION THEREWITH.

11. **Limitations of Liability.** EXCEPT TO THE EXTENT THE FOLLOWING LIABILITY LIMITATION IS PROHIBITED BY APPLICABLE LAW, IN NO EVENT WILL SCHOOLOGY, ITS DEVELOPERS, OR ITS SUPPLIERS BE LIABLE FOR ANY LOST PROFITS, LOST OPPORTUNITY, LOST SAVINGS, LOSS OF GOODWILL, LOST BUSINESS, LOSS OF ANTICIPATED BENEFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF OR DAMAGE TO DATA, COMPUTER FAILURE OR MALFUNCTION, OR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR AS A RESULT OF THIS AGREEMENT, THE USE OF OR INABILITY TO USE THE SCHOOLOGY SYSTEM OR THE PROVISION OF ENTERPRISE SERVICES, EVEN IF SCHOOLOGY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL SCHOOLOGY'S, ITS DEVELOPERS' OR SUPPLIERS' ENTIRE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR AS A RESULT OF THIS AGREEMENT EXCEED THE AMOUNT ACTUALLY PAID BY SUBSCRIBER FOR THE RIGHT TO USE THE SCHOOLOGY SYSTEM IN THE TWELVE (12) MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY. THE FOREGOING LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.

12. **Indemnification.** Subscriber agrees to indemnify, defend and hold harmless Schoology and Schoology's officers, directors, employees, agents, and representatives, from and against any and all claims,

damages, expenses, judgments, fines, and amounts paid in settlement in connection with any proceeding arising from Subscriber's breach of this Agreement or its use of the Schoology System.

13. **Miscellaneous**

13.1 **Publicity**. Subscriber consents to Schoology's use and/or references to Subscriber's name, directly or indirectly, in Schoology's marketing and training materials. Subscriber may not use Schoology's name or trademark without Schoology's prior written consent.

13.2 **Force Majeure**. Neither party shall be liable for any delay or failure to perform any obligation hereunder due to causes beyond its control, including without limitation, war, riot, insurrection, civil commotion, terrorist activity, fire, industrial disputes of whatever nature, acts of nature, computer crimes, epidemics, acts or omissions of third party vendors or suppliers, equipment failures, public enemies of government, failure of telecommunications, system malfunctions, fire, or other casualty.

13.3 **Waiver and Severability**. Waiver by Schoology of any default or breach by Subscriber of any provision contained in this Agreement does not constitute a waiver of any subsequent default or breach of the same or any other provision of this Agreement. If any part of this Agreement shall be held invalid, illegal, in conflict with any law, or otherwise unenforceable by a court of competent jurisdiction, the remainder of this Agreement will nevertheless remain in full force and effect.

13.4 **No Third Party Beneficiaries**. The parties do not intend to confer any right or remedy on any third party.

13.5 **Entire Agreement**. This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement.

13.6 **Assignment**. Subscriber may not assign this Agreement to any third party without the prior written consent of the Schoology. Any such purported assignment shall be null and void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, and permitted assigns, if any.

13.7 **Notices**. Any notice required under this Agreement shall be in writing and effective when (a) delivered personally against receipt, (b) deposited in the mail and registered or certified with return receipt requested, postage prepaid, (c) shipped by a recognized courier service and addressed to either party as designated in this Agreement, (d) delivered by email to an email address designated by the recipient, or (e) delivered via any of the foregoing at the addresses specified in the Sales Order or such other address as may be provided by the recipient in accordance with this Section.

13.8 **Controlling Law and Venue**. This Agreement shall be construed and controlled by the laws of the State of New York, U.S.A., without giving effect to principles of conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed and shall not apply to this Agreement. Courts located in New York, New York shall be the exclusive forum for any litigation arising out of this Agreement. Subscriber hereby waives any objections to venue, personal jurisdiction, or forum non conveniens.

13.9 **Counterparts**. This Agreement may be executed in counterparts, each of which shall be deemed an original, and the counterparts shall together constitute one and the same instrument, notwithstanding that all of the parties are not signatory to a single original or the same counterpart. The parties may also deliver and accept facsimile or electronically scanned signatures, which shall be binding upon the parties as if the signature were an original.

13.10 **Independent Contractor.** The parties are acting and shall act as independent contractors. Neither party is, nor will be deemed to be, an agent, legal representative, joint venturer or partner of the other party for any purpose. Neither party will be entitled to (a) enter into any contracts in the name of or on behalf of the other party; (b) pledge the credit of the other party in any way or hold itself out as having authority to do so; or (c) make commitments or incur any charges or expenses for or in the name of the other party. Neither party's personnel are, nor shall they be deemed to be at any time during the term of this Agreement, employees of the other party.