

**AMENDMENT TO THAT CERTAIN MASTER SUBSCRIPTION AGREEMENT  
BETWEEN THE BOARD OF EDUCATION OF LINCOLNWOOD SCHOOL DISTRICT  
74 AND SCHOOLOGY, INC.**

This Amendment is entered into this 13th day of April, 2017 by and between the Board of Education of Lincolnwood School District No. 74 (“Subscriber”) and Schoology, Inc. (“Schoology”) (collectively, the “Parties”) and amends the Master Subscription Agreement (“Agreement”) entered into by the Parties.

1. **Terms and Conditions.** This Amendment modifies the Master Subscription Agreement entered into by the Parties. Terms and conditions not amended herein shall have the same meaning as in the Agreement. In the event of a conflict between a term or condition contained in this Amendment and a term or condition contained in the Agreement, the term or condition contained in this Amendment shall control.

2. **Confidential Information.** Add the following as Section 5(e):

Confidential Information shall not include the terms of any agreement between Schoology and Subscriber. Schoology understands and acknowledges that Subscriber is a public body subject to the Illinois *Freedom of Information Act* and that Subscriber is obligated to release certain information pursuant to requests under said Act unless such information is protected from disclosure by one or more of the exemptions under the Act. Accordingly, if Subscriber receives a request seeking the disclosure of Schoology’s Confidential Information pursuant to a *Freedom of Information Act* request, then the District must notify Schoology of the request in writing in advance of making any disclosure of Schoology’s Confidential Information. Schoology agrees that any disclosure by Subscriber of Confidential Information pursuant to a *Freedom of Information Act* request shall not be a breach of this Agreement, if Subscriber has provided notice as required in this Paragraph. Both Schoology and Subscriber acknowledge that this obligation survives the termination of this Agreement.

3. **FERPA Records Information.** Add the following as a new Section 5(f):

In addition to its obligation to maintain FERPA Records in accordance with FERPA, Schoology shall also maintain all student records obtained from Subscriber in accordance with the applicable provisions of the *Illinois School Student Records Act* (105 ILCS 10/1) (“Student Records”). Schoology agrees: (i) it will not disclose any Student Records to any individual other than to employees, contractors and representatives of Schoology that have a legitimate interest in such information; (ii) it will gather Student Records in a manner that only permits employees, contractors and representatives of Schoology that have a legitimate interest in such information access thereto; and (iii) the Student Records will be destroyed when no longer needed for the purposes for which it was gathered or as otherwise required under this Agreement. Schoology shall ensure that its contractors and subcontractors that are provided access to Student Records

maintain at least the same level of security over access to the Student Records as Schoology maintains and that such contractors and subcontractors are subject to terms and conditions with regard to maintenance and use of Student Records no less stringent than those herein. Further, Schoology shall provide notification to Subscriber of any written third party requests to Schoology for redisclosures of Student Records from Subscriber and obtain Subscriber's consent prior to disclosure.

4. **Privacy and Breach Notification.** Add the following as a new Section 5(g):

Schoology shall maintain the necessary and appropriate privacy and data security controls to secure Student Records and FERPA Records in its possession. Schoology shall notify the Subscriber in writing without unreasonable delay after Subscriber's Student Records or FERPA Records have been accessed, used or disclosed by an unauthorized person or entity or is reasonably believed to have been accessed, used or disclosed by an unauthorized person or entity. Schoology shall respond to any such unauthorized access, use or disclosure according to standard, industry-wide commercially reasonable security practices.

5. **Renewals; Termination.** Delete Section 7 in its entirety and insert in lieu thereof:

The Term of this Agreement shall be for one year, and may be renewed for additional one (1) year periods, upon mutual written agreement. Either 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. In addition, Subscriber may terminate this Agreement for convenience upon thirty (30) days written notice to Schoology. After termination or expiration of this Agreement, Schoology shall return all of Subscriber's Student Records and FERPA Records in its possession and delete any copies thereof. 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.

6. **Limitations of Liability.** Delete Section 11 in its entirety and insert in lieu thereof:

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 SCHOOLGY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR LIABILITY RESULTING FROM (1) SCHOOLGY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (2) ANY INFRINGEMENT OF COPYRIGHTS, TRADEMARKS OR OTHER PATENT RIGHTS AS A RESULT OF SUBSCRIBER'S USE OF THE PRODUCTS PROVIDED HEREUNDER, SCHOOLGY'S, ITS DEVELOPERS' OR SUPPLIERS' ENTIRE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR AS A RESULT OF THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY SUBSCRIBER FOR THE RIGHT TO USE THE SCHOOLGY 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.

7. **Indemnification**. Delete Section 12 in its entirety and insert in lieu thereof:

Schoolgy agrees to indemnify and hold harmless the Subscriber, its individual Board members, employees and agents ("Indemnitees"), from any damages, losses, costs, fees, liabilities or expenses of any kind whatsoever, specifically including reasonable attorney's fees and court costs (collectively, "Damages"), to the extent such Damages are caused by (i) the negligence or willful misconduct of Schoolgy, or (ii) any infringement of copyrights, trademarks or other patent rights as a result of Subscriber's use of the products provided hereunder. Should any products supplied by Schoolgy become the subject of a claim of infringement of a patent, copyright, or a trademark, then (in addition to the indemnity described above) and Subscriber's sole and exclusive remedy shall be for Schoolgy at its own expense (and at Schoolgy's discretion), to either (i) to procure for the Subscriber the right to continue using the products, (ii) to replace or modify the same to become noninfringing and continue to meet specifications of the Agreement in all material respects, or (iii) terminate the Agreement and refund Subscriber any prepaid fees covering the remainder of the subscription term.

8. **Publicity**. Delete the first sentence of Section 13.1 in its entirety.

9. **Assignment**. Delete the first sentence of Section 12.6 in its entirety and insert in lieu thereof: "Neither party may assign this Agreement to any third party without the prior written consent of the other party, provided however, a party may without the written consent of the other party, assign this Agreement in connection with the transfer or sale of all or substantially all of its business related to this Agreement, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all assigned obligations of its assignor under this Agreement."

10. **Controlling Law and Venue.** Section 13.8 is revised so that Illinois law governs the Agreement and any litigation arising out of the Agreement must be conducted in the Cook County Circuit Court or the United States District Court for the Northern District of Illinois.

11. **Compliance with Laws.** In providing the Services, Schoology agrees to comply with all applicable laws rules and regulations.

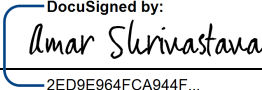
12. **Insurance.** During the term of this Agreement and any renewal thereof, Schoology shall maintain a cyber-liability insurance policy insuring data breaches.

In witness whereof this Amendment is entered into as of the date set forth above.

**BOARD OF EDUCATION OF  
LINCOLNWOOD SCHOOL DISTRICT 74  
COOK COUNTY, ILLINOIS**

**SCHOOLGY, INC.**

By: \_\_\_\_\_

By:  \_\_\_\_\_

Its: \_\_\_\_\_

Its: 2ED9E964FCA944F...  
VP Finance \_\_\_\_\_

Date: \_\_\_\_\_

Date: 4/13/2017 \_\_\_\_\_

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