



Client Order

Q-36913

Illuminate Education

6531 Irvine Center Drive Suite 100
 Irvine, California 92618
 (949) 656-3133
<https://www.illuminateeducation.com/>

Prepared Date:	5/16/2019	Customer:	Pomona Unified School District
Valid Through:	6/15/2019	Address:	800 S. Garey Ave Pomona, California 91766
Prepared By:	Peter Whitmore	Contact:	Silvia San Martin
Start Date:	7/1/2019	Phone:	9093974800 x23833
End Date:	6/30/2020	Number of Schools:	40
Quote Term:	12		

Assessment

Dates: 7/1/2019 - 6/30/2020

QTY	PRODUCT	DESCRIPTION	UNIT	TOTAL
23,092	IO Assessment, Software License	IO Assessment Annual License	\$2.75	\$63,503.00
23,092	Inspect Plus	Access to Key Data Systems KDS Inspect Plus	\$2.00	\$46,184.00
23,092	Grading Software	Assessment Scanning and Scoring	\$1.00	\$23,092.00
Assessment TOTAL:				\$132,779.00

On-Going Illuminate subscription license and/or support fees are invoiced at then current rates & enrollment per terms of the Master Subscription Licenses & Services Agreement, which may be subject to an annual increase after the first year for non-multi-year contracts and/or enrollment increases (i.e., as your student count increases or decreases, the quantity will be adjusted in accordance with the terms of the Agreement).

Any applicable state sales tax has not been added to this Client Order. Subscription Start and Expiration Dates shall be as set forth above, which may be delayed based upon the date that Illuminate receives your purchase order.

In the event that this Client Order includes promotional pricing, said promotional pricing is only valid for the select term(s), product(s), and/or service(s) as shown in this Client Order. The promotional pricing may also be limited in availability to you through the date on this Client Order that is shown as the "Valid Through" period.

All invoices shall be paid within thirty (30) days of the date of invoice.

All purchase orders must contain the exact Client Order number stated within.

To accept and finalize this Client Order, please remit a purchase order to:

Orders@IlluminateEd.net
 or
 6531 Irvine Center Drive #100
 Irvine, CA 92618



Master Subscription Licenses & Services Agreement

This Master Subscription Licenses & Services Agreement ("Agreement") is hereby entered into as of the date of receipt of purchase order and/or enforcement of any and all product and/or service orders (the "Effective Date") between the purchasing agency ("Client") and Illuminate Education, Inc., a California corporation having its principal place of business at 6531 Irvine Center Drive, Irvine, CA 92618, and wholly-owned subsidiaries, including, but not limited to Adrylan Communications, LLC, eduClimber, LLC, eSchoolData, LLC, IO Education, LLC, Sanford Systems, Inc. dba Key Data Systems, SchoolCity, Inc., and The Learning Egg, LLC (collectively "Illuminate") (Client and Illuminate are referenced herein as each a "Party" and collectively the "Parties").

Definitions.

(a). "**Client Order**" means the Illuminate document attached hereto (or subsequently produced invoice), which lists the Licensed Product(s), current pricing, Service(s), Software, Subscription Period, Third Party Software, and/or applicable financial terms related to this Agreement, and is hereby incorporated into this Agreement upon receipt of Client's purchase order as specified herein.

(b). "**Documentation**" means technical materials provided by Illuminate to Client in hard copy or electronic form describing the use and operation of the Software, which does not include any sales and/or marketing materials that Illuminate may provide Client to describe functionality intended for sales and/or marketing purposes.

(c). "**Licensed Product(s)**" means all software (including Embedded Applications, which is software licensed by Illuminate and provided to Client as part of the terms of this Agreement) and subsequent versions provided during an active Subscription Period and/or in relation to Support Services and all related Documentation licensed to Client pursuant to this Agreement, now or in the future.

(d). "**Services**" means the service(s) described in the applicable Client Order attached hereto or an executed statement of work ("SOW"), associated with the Software and the Documentation, including any applicable software hosting or Professional Services, as defined herein, and/or provided by Illuminate to Client.

(e). "**Software**" means the Illuminate software programs described in the applicable Client Order.

(f). "**Subscription Period**" means the period commencing upon the start date set forth in the applicable Client Order and continuing until terminated in accordance with Section 14 ("Termination").

(g). "**Third Party Software**" means any software product designated as Third Party Software by Illuminate, and any related documentation supplied to Client, which is licensed directly between Client and a third party. Third Party Software is different than Embedded Applications in that Illuminate licenses the Embedded Applications to Client as part of Licensed Product (but in some cases, such Embedded Applications may be subject to additional license terms as identified herein). Illuminate is not a licensor of Third Party Software.

1. Subscribing to the Service(s). Client will subscribe to the Licensed Product(s) and/or Services by providing a purchase order displaying the unique identifier contained within the Client Order attached hereto and/or executing a written SOW for such Licensed Product(s) and/or Services with Illuminate. Any additional and/or varying terms included in the Client's purchase order are hereby deemed null and void. Upon mutual consent, each SOW will be incorporated into this Agreement. Each Client Order and/or SOW will specify the Licensed Product(s) and/or Services and specific terms and conditions applicable to that order. In the event of any conflict between this Agreement and a SOW, the mutually agreed upon SOW shall control, except this Agreement shall

govern all terms relating to intellectual property rights, confidential information, warranty, indemnity and liability. Subject to the terms and conditions of this Agreement [including all incorporated documents as set forth in Section 15(k) herein], Illuminate will provide the Licensed Product(s) and/or Services described in the initial Client Order. Additional Client Orders and/or SOWs may be entered into by the Parties to subscribe to additional or different features of the Licensed Product(s) and/or Services. Unless designated as replacing a specific Client Order and/or SOW, subsequent Client Orders and SOWs will be considered in addition to currently effective Client Orders and SOWs.

2. License.

(a). **License Grant.** Subject to the terms and conditions of this Agreement, including Illuminate's Privacy Policy, which is incorporated in full herein by reference, Illuminate grants to Client a limited, revocable, annual (or multi-year as specified in Illuminate's Client Order), non-exclusive, non-transferable license during the Subscription Period, to access the Licensed Product(s) and/or Services through the User IDs and to operate the features of the Licensed Product(s) and/or Services according to the Documentation under normal circumstances. No source code or technical-level documentation to the Licensed Product(s) and/or Services is licensed under this Agreement.

(b). **User IDs.** Illuminate will issue Client's system administrator access to Client's designated user(s) that will have the ability to issue a singular User ID and password to each student, teacher, and administrator for access to and to utilize the Licensed Product(s) and/or Service(s) specified in the applicable Client Order and/or SOW. Client shall limit the total number of issued User IDs and passwords to the student count noted for each Licensed Product and/or Service on the Client Order; provided that said student count does not limit the total number of teacher and administrator User IDs and passwords that Client may issue. Each User ID may only be used to access the Services during one (1) concurrent login session. Client shall not allow Client Personnel and/or students to share User IDs with any third parties, which require prior written approval for access by Illuminate. "Client Personnel" is defined as Client's internal employees, who shall be bound by confidentiality restrictions at least as restrictive as this Agreement provides, explicitly excluding contractors and/or vendors that are not granted access herein. Client is responsible for all activity occurring under its User IDs and control of said User IDs, including the corresponding password credentials. Client is responsible for all use of the Licensed Product(s) and/or Services by Client Personnel, students Client grants access to, for maintaining the confidentiality of all User IDs, and promptly notifying Illuminate of any actual or suspected unauthorized use of the Licensed Product(s) and/or Services. Illuminate reserves the right to suspend or terminate any Client user that Illuminate determines may have been used for an unauthorized purpose.

(c). **Limitations.** Client agrees that it will not and will not permit any Client Personnel or other party to: (i) permit any party to access or use the Licensed Product(s) and/or Services, Software, or Documentation, other than Client Personnel explicitly authorized by Illuminate; (ii)

modify, adapt, alter or translate the Software or Documentation, except as expressly allowed hereunder; (iii) sublicense, lease, rent, loan, distribute, or otherwise transfer the Licensed Product(s) and/or Services, Software, or Documentation to any third party; (iv) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or algorithms, structure or organization) of the Software; (v) use or copy the Software or Documentation except as expressly allowed hereunder; (vi) disclose or transmit any data contained in the Software to any individual other than Client Personnel. To the extent permitted under the law, Client shall hold Illuminate harmless from any and all claims relating to Client's misuse of Licensed Product(s) and/or Services rendered by Illuminate to Client, including Illuminate's intellectual property.

(d). **Client Responsibility.** Client shall perform the responsibilities necessary to establish Client's use of the Licensed Product(s) and/or Services, including (i) providing Client Personnel lists to setup User IDs, (ii) properly maintaining all associated equipment, software and environmental conditions in accordance with applicable industry standards and/or specifications Illuminate may provide Client, and (iii) designating Client Personnel to participate in training.

3. Acceptable Use Policy. Client acknowledges and agrees that Illuminate does not monitor or police the content of communications or data of Client or its users transmitted through the Licensed Product(s) and/or Services, and that Illuminate shall not be responsible for the content of any such communications or transmissions. In using the Software, Licensed Product(s), and/or Services, Client agrees to the following: (i) Client shall not incorporate into or otherwise transmit through the Software, Licensed Product(s), and/or Services any content that violates or infringes the rights of others, including without limitation any material that: (A) may be abusive, indecent, threatening, obscene, harassing, violent, defamatory, libelous, fraudulent, or otherwise objectionable; (B) encourages or otherwise promotes conduct that would constitute a criminal offense or give rise to civil liability; (C) impersonates any person or entity or that otherwise misrepresents Client's affiliation with a person or entity; (D) contains malicious code; (E) is in violation of the CAN-SPAM Act or any other applicable laws pertaining to unsolicited email, SMS, text messaging or other electronic communications, or the transmission of emails to an individual or entity with which Client has no preexisting relationship; (F) includes the private information of another without express permission, including but not limited to contact information, social security numbers, credit card numbers or other information which a reasonable individual would consider private in nature, (G) violates any privacy, intellectual property or proprietary right of another; (H) is pornographic or sexual in nature; (I) expressly targets children under the age of 13; or (J) is unlawful or otherwise objectionable, in Illuminate's sole opinion; and (ii) Client shall ensure that Client's use of the Software and/or Services is at all times compliant with all applicable local, state, federal and international law, regulations and conventions, including without limitation, those related to data privacy, international communications, and the exportation of data of any kind, regulations of the U.S. Securities and Exchange Commission and/or any rules of a securities exchange in the U.S. or elsewhere.

4. Reservation of Rights.

(a). **Illuminate.** Illuminate expressly reserves all rights in the Licensed Product(s), Services, Software, Documentation, and all other materials provided by Illuminate hereunder not specifically granted to Client. It is acknowledged that all right, title and interest in the Licensed Product(s), Services, Software, Documentation, and all other materials provided by Illuminate hereunder, including, but not limited to any update,

adaptation, translation, customization or derivative work thereof, and all intellectual property rights therein will remain with Illuminate (or third party suppliers, if applicable) and that the Licensed Product(s), Services, Software, Documentation, and all other materials provided by Illuminate hereunder are licensed on a subscription basis and not transferred to Client apart from the temporary license(s) discussed herein.

(b). **Client.** Client expressly reserves all rights in any data that Client (or Client Personnel/student users) loads or enters into the Licensed Product(s) and/or Services and all results from processing such data, including compilations, and derivative works thereof (the "Client Data"), except that Client grants Illuminate a non-exclusive, royalty-free, license to use, reproduce, and create derivative works of the Client Data in operating the Licensed Product(s) and/or Service features for Client's benefit as is explicitly permitted under the law. Additionally, Illuminate may use and distribute the Client Data for any lawful purpose outside the scope of the Agreement, provided always that such Client Data must be aggregated and/or de-identified (e.g., the development of Illuminate's products and/or services, as authorized under F.E.R.P.A. and applicable state laws). Client represents and warrants that Client has all rights under applicable law to provide and input in the Licensed Product(s) and/or Services the Client Data, including any personally identifiable information of any of the students and or other persons included therein.

5. Term. Unless earlier terminated pursuant to this Agreement, this Agreement shall be in effect pursuant to the dates set forth in the Client Order and/or SOW ("Initial Term"), and thereafter may be renewed for additional one (1) year periods upon each anniversary of the commencement of the Initial Term (each subsequent period will be known as a "Renewal Term" and together with the Initial Term, the "Term"). The Renewal Term(s) will be invoiced at then-current rates; provided that Illuminate does not enter into a multi-year item price agreement with Client, as denoted in the attached Client Order. Expiration or termination of one Client Order and/or SOW shall not affect any other Client Order and/or SOW, unless the Agreement Term expires or the Agreement as a whole is terminated under Section 14 ("Termination")

6. Client Support. During the Subscription Period for the applicable Services, Illuminate will provide the following standard customer support:

(a). **Web & Phone Support.** Client's designated representative(s) shall have access to Illuminate's technical support via website/email and telephone and may use the website/email to submit service requests. Illuminate will use reasonable efforts to respond in a timely manner under the given circumstances.

(b). **Client's Responsibilities.** To receive support, Client shall: (i) report errors or suspected errors for which support is needed, and supply Illuminate with sufficient information and data to reproduce the error; (ii) procure, install, operate and maintain hardware, operating systems and other software that are compatible with the most current supported version of Software; (iii) establish adequate operational back-up provisions in the event of malfunctions or errors; (iv) maintain an operating environment free of any modifications or other programming that might interfere with the functioning of Software; (v) maintain hardware and system software consistent with Illuminate's minimum requirements; and (vi) timely install all fixes and new versions supplied by Illuminate in the proper sequence, and have the most current version of Software installed (if applicable). Client acknowledges that fixes and new versions may be made available electronically, and that, in some cases, Illuminate may maintain email distribution lists that are used to

notify Clients of the availability of fixes and new versions and to provide other information to Clients that are eligible for support. Client shall be responsible for including the appropriate Client Personnel on any such email distribution lists of Illuminate so that Client receives such notifications and other information.

(c). **Service Upgrades and Scheduled Downtime.** Client shall receive, through the Licensed Product(s) and/or Services, generally available versions and releases for the Software, as designated by Illuminate in its sole discretion and that Illuminate generally offers to its other clients in Illuminate's sole discretion, and at no additional charge (beyond current support and subscription fees). Illuminate may from time to time schedule downtime for maintenance and upgrades. Illuminate may provide Client notice of any scheduled downtime, including any scheduled user disruption, if the circumstances permit such notice. Illuminate will strive to perform updates during non-peak hours.

7. Professional Services. In consideration of Client's payment of the applicable and non-refundable fees and expenses set forth in the Client Order or SOW for professional services, Illuminate will provide Client the professional services set forth therein, which may include attendance at designated training sessions provided by Illuminate as set forth herein ("Professional Services"). Training and/or consultation sessions may be conducted, as Illuminate deems appropriate or as explicitly agreed upon in writing on the Client Order or SOW at the time of purchase, at Illuminate's training facility, at Client's location, or by teleconference.

(a). **Use Period.** All Professional Services must be prepaid or paid in the same manner as agreed to with other Licensed Products included on the applicable Client Order and utilized by Client within one (1) year of purchase. Illuminate, in its sole discretion, may extend this period up to a maximum of one (1) additional year to utilize said Professional Services; however, regardless of whether the Professional Services use period described herein is extended, Client's non-utilization of purchased Professional Services will be deemed null and void upon expiration of the applicable use period.

(b). **Third Party Integration.** Illuminate, in its sole discretion, will assist Client with integration of Licensed Product(s) with Client's third party applications that are compatible in nature. Due to the potential access of students' personally identifiable information, Illuminate provides said integration only at the request of Client in writing. Client is solely and entirely responsible for compliance with local, state, and federal laws corresponding with integrations. To the extent permitted under the law, Client agrees to indemnify and hold Illuminate harmless for any actions and/or omissions pertaining to said integration.

8. Hosting.

(a). **Availability.** Client acknowledges and agrees that the hosted Licensed Product(s) and/or Services may be inaccessible or inoperable from time to time due to planned maintenance or to causes that are beyond the control of Illuminate or are not reasonably foreseeable by Illuminate, including, but not limited to: (i) the interruption or failure of telecommunication or digital transmission links; (ii) hostile network attacks; (iii) network congestion; (iv) or other failures (collectively "Downtime"). Illuminate shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the Licensed Product(s) and/or Services caused by Downtime, whether scheduled or not.

(b). **Security.** Client will not: (i) breach or attempt to breach the security of the hosting environment or any network, servers, data, computers or other hardware relating to or used in connection with the Licensed Product(s) and/or Services, or any third party that is hosting or interfacing with any part of the Licensed Product(s) and/or Services; or

(ii) use or distribute through the Licensed Product(s) and/or Services any software, files or other tools or devices designed to interfere with or compromise the privacy, security or use of the Licensed Product(s) and/or Services or the operations or assets of any other customer of Illuminate or any third party. Client will comply with any potential user authentication requirements for use of the Licensed Product(s) and/or Services. Client is solely responsible for monitoring its authorized users' access to and use of the Licensed Product(s) and/or Services. Illuminate has no obligation to verify the identity of any person who gains access to the Licensed Product(s) and/or Services by means of an access ID. Any failure by any authorized user to comply with the Agreement shall be deemed to be a material breach by Client, and Illuminate shall not be liable for any damages incurred by Client or any third party resulting from such breach. Client must immediately take all necessary steps, including providing notice to Illuminate, to affect the termination of an access ID for any authorized user if there is any compromise in the security of that access ID or if unauthorized use is suspected or has occurred in relation to hosted Licensed Product(s) and/or Services.

(c). **Data.** Client has sole responsibility for the legality, reliability, integrity, accuracy and quality of the data it processes through and submits to the hosting environment.

9. Fees and Payment.

(a). **Subscription Fees.** Subscription Fees (set forth in each Client Order and/or SOW) are payable in advance pursuant to subsection 9(b) below. Illuminate will issue an invoice for each payment annually.

(b). **Fees.** All fees and expenses will be invoiced and are payable net thirty (30) days after the invoice date and are non-refundable after being granted access to any products and/or the commencement of internal preparations to provide Professional Services. Such other fees and expenses along with the corresponding fees for Licensed Product(s) and/or Services are collectively "Fees".

(c). **Renewals; Enrollment Increases.** Prior to any Renewal Term, Client shall provide Illuminate with an updated student count for proper invoicing and to maintain an accurate number of students accessing the Licensed Product(s) and/or Services specified in all applicable Client Orders. Illuminate reserves the right to validate, adjust, and/or invoice for variation of Client's student count based on information provided to state reporting agencies. If an increase in student enrollment in excess of five percent (5%) occurs, then Client shall remit payment for additional student access to Licensed Product(s) and/or Services in accordance with Illuminate's supplemental invoice. Such additional fees will be calculated by multiplying the then-current per student fee for Licensed Product(s) and/or Services by Client's additional enrollment. Additionally, in the event a Client Order includes discounted pricing for bundled Licensed Product(s) and/or Services and Client terminates any Licensed Product(s) and/or Services within the bundle, Illuminate reserves the right to invoice Client at then-current pricing for the non-terminated Licensed Product(s) and/or Services. Illuminate may supply new or modified policies or other terms and conditions to Client related to the provision of Licensed Product(s) and/or Services in a renewal term in order to remain compliant with applicable laws and/or Illuminate's uniform procedures, in which event such new or modified policies or other terms and conditions will govern Illuminate's provision of Licensed Product(s) and/or Services in such renewal term.

(d). **Late Payment.** Client may not withhold or "setoff" any amounts due hereunder. Illuminate reserves the right to suspend Services, including access to the Software, and Professional Services (if any) until all undisputed past due amounts are paid in full after giving Client advance written notice and an opportunity to cure as specified in Section 13

("Notices") and Section 14 ("Termination"). Illuminate also reserves the right to charge Client a 1.5% late fee for any outstanding invoices that exceed ninety (90) days past due.

(e). **Certain Taxes.** Fees quoted do not include and Client shall pay, and to the extent permitted under the law, indemnify and hold Illuminate harmless from all gross receipts, value-added, personal property or other taxes, and all applicable duties, tariffs, assessments, export and import fees or similar charges (including interest and penalties imposed thereon) on the transaction contemplated herein, other than taxes based on the net income or profits of Illuminate. If client is exempt from federal, state, sales, and use taxes the client will not be charged the same upon providing Illuminate with sufficient evidence of said exemption.

10. Confidential Information.

(a). **Definitions.** For purposes of this section, a Party receiving Confidential Information (as defined below) shall be the "Recipient" and the Party disclosing such information shall be the "Discloser" and "Confidential Information" means all information disclosed by Discloser to Recipient during the Term and marked as "confidential" or "proprietary". Client hereby acknowledges that the Services (including any Documentation, Software, and any translations, compilations, partial copies and derivative works thereof) will be considered Confidential Information belonging exclusively to Illuminate (or its designated third party supplier), and Illuminate hereby acknowledges that Client Data will be considered Confidential Information belonging to Client, in each case regardless of whether or not marked as "confidential" or "proprietary".

(b). **Covenant.** To the extent permitted by law, recipient hereby agrees that during the Term and at all times thereafter it shall not (i) disclose such Confidential Information of the Discloser to any person or entity, except to its own personnel having a "need to know" (and who themselves are bound by similar nondisclosure restrictions), and to such other recipients as the Discloser may approve in writing; provided that all such recipients shall have first executed a confidentiality agreement in a form acceptable to Discloser; (ii) use Confidential Information of the Discloser except to exercise its license rights or perform its obligations under this Agreement; or (iii) alter or remove from any Confidential Information of the Discloser any proprietary legend. Recipient shall use at least the same degree of care in safeguarding the Confidential Information of the Discloser as it uses in safeguarding its own confidential information of a similar nature, but in no event shall less than due diligence and reasonable care be exercised. Upon the earlier of Discloser's written request or termination or expiration of this Agreement, and regardless of whether a dispute may exist, Recipient shall return or destroy (as instructed by Discloser) all Confidential Information of Discloser in its possession or control and cease all further use thereof. Notwithstanding the foregoing, Recipient may disclose Discloser's Confidential Information to the extent that such disclosure is necessary for the Recipient to enforce its rights under this Agreement or is required by law or by the order of a court or similar judicial or administrative body, provided that the Recipient promptly notifies the Discloser in writing of such required disclosure and cooperates with the Discloser to seek an appropriate protective order.

(c). **Injunctive Relief.** Recipient acknowledges that violation of the provisions of this section would cause irreparable harm to Discloser not adequately compensable by monetary damages. In addition to other relief, it is agreed that injunctive relief shall be available without necessity of posting bond to prevent any actual or threatened violation of such provisions.

11. Disclaimers.

(a). **DISCLAIMER OF OTHER WARRANTIES.** SOFTWARE AND SERVICES ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND (UNLESS EXPLICITLY PROVIDED FOR HEREIN), AND ILLUMINATE AND ITS LICENSORS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND POTENTIAL IMPLEMENTATION DELAYS. ILLUMINATE DOES NOT WARRANT THAT THE FUNCTIONALITY CONTAINED IN THE LICENSED PRODUCT WILL MEET CLIENT'S REQUIREMENTS, OR THAT THE OPERATION OF THE SOFTWARE OR CLOUD HOSTING WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE LICENSED PRODUCT WILL BE CORRECTED. FURTHERMORE, ILLUMINATE DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SOFTWARE OR SERVICES IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, SECURITY OR OTHERWISE. CLIENT AGREES THAT THE USE OF SOFTWARE AND SERVICES IS AT CLIENT'S OWN RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ILLUMINATE OR AN ILLUMINATE REPRESENTATIVE SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT FULLY APPLY TO CLIENT.

(b). **Limited Non-Infringement Warranty.** Illuminate warrants that it has the right to license to Client the Software and Services as contemplated by this Agreement. Illuminate represents and warrants that as of the date the Software and Services is first made available hereunder, when properly used in accordance with the Documentation and this Agreement, will not misappropriate or infringe any third party's intellectual property rights recognized under any trade secret law, any U.S. copyright, or U.S. patent issued as of the Effective Date.

(c). **Limited Privacy Warranty.** Illuminate hereby recognizes that the Client Data which Client provides to Illuminate may include personally identifiable information of students. In order for Illuminate to carry out its obligations under this Agreement, it is necessary for Illuminate to use the Client Data. Illuminate agrees to use the Client Data, some of which may contain personally identifiable information of students, only for the purpose of fulfilling its obligations under this Agreement. Illuminate agrees all usage of Client Data shall be in compliance with the requirements of applicable privacy laws. Illuminate warrants that it has put in place reasonable and appropriate security, technical, and organizational measures to protect its usage of the Client Data against accidental or unlawful destruction or accidental loss, alterations, and unauthorized use, disclosure, or access. Illuminate also warrants that it shall not disclose to, permit the disclosure to, or provide access to the Client Data to any third parties, except as is necessary for Illuminate to fulfill its obligations under this Agreement and under the law. In the event the Client or any third party believes there has been a material breach of this provision, Illuminate shall have a reasonable amount of time, which will be a minimum of thirty (30) days from the date of receiving written notice to cure any such alleged breach.

12. Limitation of Liabilities. The Parties acknowledge that the following provisions have been negotiated by them and reflect a fair allocation of risk and form an essential basis of the bargain and shall survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy:

ILLUMINATE SHALL NOT BE LIABLE TO CLIENT FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; OR LOST PROFITS, LOST FUNDING, LOST SAVINGS, OR LOST OR DAMAGED DATA; OR FOR CLAIMS OF A THIRD PARTY; ARISING OUT OF THIS AGREEMENT, SOFTWARE, THIRD PARTY SOFTWARE, SUPPORT, HOSTING, SERVICES, OR OTHER ITEMS PROVIDED, OR THE USE OR INABILITY TO USE ANY OF THE FOREGOING, EVEN IF ILLUMINATE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY ARE FORESEEABLE. IN ANY EVENT, IN RESPECT OF ANY CLAIM, DEMAND OR ACTION ARISING OUT OF THIS AGREEMENT, CLIENT SHALL BE LIMITED TO RECEIVING ACTUAL AND DIRECT DAMAGES IN A MAXIMUM AGGREGATE AMOUNT EQUAL TO THE CHARGES PAID BY CLIENT TO ILLUMINATE HEREUNDER FOR THE APPLICABLE LICENSED PRODUCT, ITEM OR SERVICE ON WHICH THE CLAIM IS BASED IN THE PREVIOUS TWELVE (12) MONTHS.

13. **Notices.** Notices sent to either Party shall be effective when delivered electronically or physically to the address designated by Client and in the case of Illuminate to the attention of: Illuminate Legal Department to the address listed as Illuminate's principal place of business herein and in the case of Client to the recipient provided by Client at the commencement of the Services and/or use of Software. Notices must be in writing. Each Party may change its address for receipt of notice by giving notice of such change to the other Party.

14. **Termination.**

(a). **Termination for Breach.** Illuminate shall have the right to immediately suspend performance under this Agreement in the event that Client is in breach of any of its obligations under this Agreement. In addition, either party shall have the right to terminate this Agreement in whole or in part upon thirty (30) days written notice to the other party, in the event the other party materially breaches this Agreement and fails to correct such breach within such thirty (30) day period; provided that Illuminate shall have the right to terminate this Agreement immediately upon written notice in the event that Client breaches any of its obligations under Section 10. Client further acknowledges that, as breach of the provisions of Section 10 could result in irreparable injury to Illuminate, Illuminate shall have the right to seek equitable relief against any actual or threatened breach thereof, without proving actual damages.

(b). **Liquidated Damages.** In the event that Client enters into a multi-year contract with Illuminate and Client terminates the contract or any portion thereof, Client agrees to pay Illuminate the remaining sum due to Illuminate through the stated term of the Client Order and/or SOW as liquidated damages, as actual damages being impossible to calculate. This clause shall not apply in the event Client terminates this Agreement as a result of Illuminate's breach in accordance with Subsection 14(a) herein. Notwithstanding the foregoing, Client shall not be liable for said liquidated damages in the event that: (i) Client provides Illuminate at least thirty (30) days' advance notice of termination prior to the effective date anniversary; and (ii) said termination is a result of the non-appropriation of funds for Client's contract. Client shall not utilize this clause as a right to terminate the contract for convenience. Illuminate reserves the right to seek documentation evidencing the non-appropriation of funds.

(c). **Survival.** Upon termination or expiration of this Agreement for any reason: (i) all rights and obligations of both Parties (except for Client's payment of all Fees then owing), including all licenses granted hereunder, shall immediately terminate except as provided below; (ii) within thirty (30) days after the effective date of termination, each Party shall comply with the obligations to return or destroy, at Illuminate's sole discretion, all Confidential Information of the other Party, as set forth in Section 10 ("Confidential Information"). The following Sections and Subsections will survive expiration or termination of this Agreement for any reason: Section 4 ("Reservation of Rights"), Section 10 ("Confidential Information"), Section 11 ("Disclaimers"), Section 12 ("Limitation of Liabilities"), Section 14(c) ("Survival"), and Section 15 ("General Provisions"). Upon termination, as long as Client is not in breach, if requested, Illuminate shall make a final backup of Client data and provide the backup media to Client at Illuminate's then-current rates in a readily usable form in accordance with industry standards.

15. **General Provisions.**

(a). **Assignment.** Client may not assign this Agreement to any third party without Illuminate's prior written consent. Any assignment in violation of this section shall be void. The terms of this Agreement shall be binding upon permitted assignees.

(b). **Choice of Law.** This Agreement and any action related thereto shall be governed by and construed in accordance with the laws of the State of California, without regard to conflicts of law principles. Each of the Parties hereto agrees to be subject to the exclusive jurisdiction, and venue shall reside, in the state and federal courts located in Orange County, California for the purpose of adjudicating any dispute relating to or arising out of this Agreement and irrevocably consent to exclusive personal jurisdiction and venue of state and federal courts located therein. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Any claim against Illuminate must be brought within one (1) year after it arose, or be barred.

(c). **Compliance with Export Regulations.** Client has or shall obtain in a timely manner all necessary or appropriate licenses, permits or other governmental authorizations or approvals; to the extent permitted under the law, shall indemnify and hold Illuminate harmless from, and bear all expense of, complying with all foreign or domestic laws, regulations or requirements pertaining to the importation, exportation, or use of the technology to be developed or provided herein. Client shall not directly or indirectly export or re-export (including by transmission) any regulated technology to any country to which such activity is restricted by regulation or statute, without the prior written consent, if required, of the administrator of export laws (e.g., in the U.S., the Bureau of Export Administration of the U.S. Department of Commerce).

(d). **Construction.** Except as otherwise provided herein, the Parties rights and remedies under this Agreement are cumulative. The term "including" means "including without limitation."

(e). **Force Majeure.** Neither Party shall be liable for delays caused by events beyond its reasonable control, except non-payment of amounts due hereunder shall not be excused by this provision.

(f). **Severable.** Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect. Without limiting the generality of the foregoing, Client agrees that the section titled Limitation of Liabilities will remain in effect notwithstanding the enforceability of any other provision herein.

(g). **Waiver.** Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions.

(h). **Counterparts; Facsimile Signature.** Illuminate requires Client's execution of select Client Orders and/or SOWs, all of which are incorporated into this Agreement, and may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. If any Client Order and/or SOW is executed in counterparts, no signatory hereto shall be bound until both the Parties named below have duly executed or caused to be duly executed a counterpart of said Client Order and/or SOW. A signature received by either Party by facsimile is binding upon (the other Party) as an original.

(i). **Client Authorization; Enforceability.** Client represents and warrants that (i) it has obtained all necessary authorizations to enter into this Agreement and all related SOWs, (ii) the person signing and/or

consenting on behalf of Client is a duly authorized representative of the Client, and (iii) this Agreement is a duly authorized binding and enforceable obligation of Client.

(j). **Independent Contractors.** Client's relationship to Illuminate is that of an independent contractor, and neither Party is an agent or partner of the other. Client will not have and shall not represent to any third party that it has any authority to act on behalf of Illuminate.

(k). **Entire Agreement.** This Agreement, Illuminate's Privacy Policy, the attached Client Order, Illuminate's SOWs (if applicable), and Client's purchase order incorporated by reference constitute the entire Agreement between the Parties with respect to the subject matter hereof and supersede all other communications, whether written or oral. This Agreement may be amended only by a written document signed by both Parties. The headings of sections of this Agreement are for reference purposes only and have no substantive effect.

I hereby affirm that I am authorized to execute this Agreement and commit to the obligations set forth herein, including but not limited to, remit payment for all Licensed Products and/or Services procured.

ILLUMINATE EDUCATION, INC.

By: Dick Davidson
Authorized Signature

Name: Dick Davidson

Title: Chief Financial Officer

Date: 8/26/2019

CLIENT: Pomona Unified School District

By: Sandra Garcia
Authorized Signature

Name: Sandra Garcia

Title: Assistant Superintendent/CBO

Date: _____

**ADDENDUM
TO
MASTER SUBSCRIPTION LICENSES & SERVICES AGREEMENT**

THIS ADDENDUM TO THAT CERTAIN MASTER SUBSCRIPTION LICENSES & SERVICES AGREEMENT dated for reference purposes only as of July 1, 2019 (“**Addendum**”), by and between POMONA UNIFIED SCHOOL DISTRICT, a public agency of the State of California (“**District**”), and ILLUMINATE EDUCATION, INC., a California corporation (“**Company**”), is entered into by District and Company (the “**Parties**”) as of the Effective Date (as defined below), and shall be an integral part of such Master Subscription Licenses & Services Agreement associated with client order Q-36913 for a total fee of One Hundred Thirty-Two Thousand Seven Hundred Seventy-Nine Dollars (\$132,779) (“**Agreement**”), as if set forth therein. Unless expressly provided otherwise, all capitalized terms and phrases used in this Addendum shall have the same meanings as set forth in the Agreement.

OPERATIVE PROVISIONS

NOTWITHSTANDING THE TERMS OF THE AGREEMENT, the Parties hereby agree as follows:

1. **Term.** The term of the Agreement (and this Addendum as an integral part thereof) shall commence on July 1, 2019 (the “**Effective Date**”) and terminate on June 30, 2020 (“**Term**”), unless earlier terminated as provided in the Agreement and this Addendum.
2. **California Student Privacy Alliance.** In conjunction with this Addendum, the Parties hereto acknowledge that they have signed and entered into the California Student Data Privacy Agreement issued by the California Student Privacy Alliance (CSPA), as set forth in **Appendix “A”** attached hereto and incorporated by reference herein (the “**CSDPA**”), consistent with California Education Code Section 49073.1 (AB 1584), the California Student Online Personal Information Protection Act (SOPIPA) at California Business and Professions Code Sections 22584-22585, and other applicable federal and State of California student privacy and data security laws and regulations.
3. **Warranties.** Company hereby expressly warrants that (i) Company has the full power, rights and authority to enter into and perform the Agreement and to grant the rights granted to District in the Agreement; (ii) the license of and/or subscription to the Licensed Products under the Agreement, and District’s use thereof as authorized under the Agreement, will not violate or infringe upon the rights of any third party, including without limitation, any copyright, patent rights, trademark rights, trade secret rights, or other proprietary rights of any kind;.
4. **Notice of Service Interruption.** As early as reasonably practicable, Company will provide advance notice to District prior to interrupting or discontinuing some or all online features or services in order to perform hardware or software maintenance and/or upgrades.

5. **Compliance Warranty.** Company warrants that it will comply with, and will cause each of its employees, agents, and contractors to agree in writing to comply with, all federal and state laws and regulations applicable to its performance under the Agreement, including without limitation the Family Educational Rights and Privacy Act (FERPA) at 20 U.S.C. 1232g, the Children's Online Privacy Protection Act (COPPA) at 15 U.S.C. 6501-6502, the Protection of Pupil Rights Amendment (PPRA) at 20 U.S.C. 1232h, California Education Code section 49073.1 (commonly known as "AB 1584"), and the Student Online Personal Information Protection Act (SOPIPA) at California Business and Professions Code sections 22584-22585 (SB 1177). This warranty is referred to herein as the "**Compliance Warranty**".
6. **Criminal Clearance.** In connection with Company's provision of on-site training services or any other visits to District premises in the performance of the Agreement, Company shall comply with the following:
 - 6.1. Company and all of Company's employees, and subcontractors, if the use thereof in the provision of the Services has been approved by District ("**Subcontractors**"), shall comply with all requirements related to fingerprinting set forth in California Education Code Section 45125.1, and all District Administrative Regulations related to Fingerprint Background Checks prior to any substantial contact with any students, including, without implied limitation, prior to coming onto District's school grounds or having any contact with District's students in locations other than District school grounds.
 - 6.2. In accordance with California Education Code Section 45125.1, Company shall conduct a criminal background check of its applicable employees and Subcontractors, and upon receipt of those criminal background checks, certify in writing to District, upon prior written request, the following: "Neither the Company nor any of its employees and/or Subcontractors who are required by Section 45125.1 of the California Education Code to submit or have their fingerprints submitted to the California Department of Justice and who may come in contact with District's students have been convicted of a felony as defined in Section 45122.1 of the California Education Code."
 - 6.3. Prior to the commencement of Services, Company shall register with the California Department of Justice for subsequent offender notification of its employees and Subcontractors who provide Services to District's students. It is Company's responsibility prior to commencing Services and on an ongoing basis through the Term of the Agreement, to provide District with updated information and changes in status on employees and Subcontractors in full and complete compliance with California Education Code Section 45125.1.
7. **Insurance.**
 - 7.1. Company shall, at Company's expense, procure and maintain for the duration of the Agreement general liability, workers' compensation, if required by applicable law, automobile liability, cyber liability, and other insurance to protect against Claims

(as hereinafter defined) that may arise from or in connection with the performance of the Agreement and this Addendum by Company and Company's subcontractors, officers, employees, agents, or representatives. District in no way represents or warrants that the insurance required under this section is sufficient to protect Company for liabilities that may arise from or relate to the Agreement.

- 7.2. The general liability insurance shall have a per-occurrence limit of not less than Two Million Dollars (\$2,000,000). All such insurance shall be equivalent to coverage offered by a commercial general liability form, including, without implied limitation, personal injury and contractual liability coverage for the performance by Company of the indemnity provisions set forth in the Agreement, of which this Addendum is an integral part.
- 7.3. The workers' compensation insurance, if required by applicable law, shall insure Company's obligations and liabilities under the workers' compensation laws of California, including, without implied limitation, employers' liability insurance in the limits required by the laws of California.
- 7.4. The automobile liability shall have an each-occurrence limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage. The automobile insurance shall be at least as broad as the latest version of the Insurance Office Business Auto Coverage form number CA 001, code 1 (any auto). The automobile liability policy shall be endorsed to state that: (A) the District, its governing board ("**Board**") members, superintendent, officers, employees, volunteers, agents and representatives shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Company or for which Company is responsible; and (B) the insurance coverage shall be primary insurance as respects the District, its Board members, superintendent, officers, employees, volunteers, agents, and representatives, or if excess, shall stand in an unbroken chain of coverage excess of the Company's scheduled underlying coverage. Any insurance or self-insurance maintained by District, its Board members, superintendent, officers, employees, agents and volunteers shall be excess of Company's insurance and shall not be called upon to contribute with it.
- 7.5. Company shall obtain and maintain for the duration of the Agreement One Million Dollars (\$1,000,000) in Cyber Liability Insurance to cover Security, Privacy, Business Interruption, Cyber Extortion, and Denial of Service.
- 7.6. All commercial general liability, automobile, or comparable policies maintained by Company shall name District and such other persons or firms as District specifies from time to time as additional insureds, entitling them to recover under such policies for any loss sustained by them, their agents, and employees as a result of the negligent acts or omissions of Company. All such policies maintained by Company shall provide that they may not be terminated nor may coverage be reduced except after thirty (30) days' prior written notice to District. All

commercial policies maintained by Company will be written as primary policies, not contributing with and not supplemental to the coverage that District may carry. Certificates of insurance, together with originals of the endorsements that name District as an additional insured, extending coverage on a primary, non-contributory basis, shall be delivered to District prior to Company's commencement of the Services and from time to time at least thirty (30) days prior to the expiration of the term of each such policy. The certificate(s) of insurance shall reference this Agreement by name, and the insured party named on the certificate(s) shall match the name of the Company as identified in this Agreement. Company shall not commence providing the Services under this Agreement until it has provided evidence satisfactory to District that Company has secured all insurance required under this section. Neither District's failure to obtain a complying certificate of insurance or endorsement from Company, nor District's receipt of or failure to object to a non-complying insurance certificate or endorsement or any other insurance documentation provided by Company, its insurance broker and/or insurer(s), shall be construed as a waiver of any of the required insurance provisions of this **Section 7**; provided however, that District may, in its sole discretion and in limited circumstances, modify or waive certain of these insurance requirements pursuant to an insurance sufficiency review based on the nature and scope of the Services.

8. **Indemnity**. Notwithstanding any limits on Company's insurance coverage or benefits, Company agrees to indemnify District as follows:
 - 8.1. Company shall indemnify, defend and hold harmless District, its Board members, superintendent, employees, subcontractors, volunteers, attorneys, agents, and representatives (collectively, "**District Personnel**") from any and all liability, claims, demands, assessments, losses, fines, penalties, costs, expenses (including reasonable attorney's fees), damages (however characterized) (collectively, "**Losses**") incurred in connection with, as a result of, or arising out of or by virtue of any claims, demands, actions, causes of action, or proceedings (collectively, "**Claims**", and each, individually, a "**Claim**") alleging physical injury, wrongful death or property damage in any manner arising out of or incident to any alleged acts, omissions or willful misconduct of Company, or its subcontractors, officers, employees, agents and representatives while on or about District premises in connection with any on-site training under the Agreement.
 - 8.2. Company shall indemnify, defend and hold harmless District and District Personnel from and against any Losses arising from or relating to a Claim alleging that use of or access to (in accordance with the Agreement) any of the Licensed Products provided or made available to District under the Agreement infringes upon the intellectual property or other proprietary rights of a third party. If any of the Licensed Products is held to infringe, or if in Company's opinion, such a claim is likely to occur, Company may, at its sole option and expense, either: (i) procure for District and its authorized users the right to continue using the Licensed Products in question; or (ii) replace or modify the infringing Licensed Products so that they

it becomes non-infringing as long as functionality is not materially and adversely affected. If neither alternative (i) nor (ii) is reasonably available, then Company may terminate District's license to access and utilize the allegedly infringing Licensed Products and Company shall refund to District on a pro-rata basis the amount of the prepaid annual subscription for the infringing Licensed Products attributable to the unexpired Term of the Agreement.

- 8.3. Company agrees to indemnify, defend and hold harmless District and District Personnel from any and all Losses incurred in connection with, as a result of, or arising out of or by virtue of any Claim arising out of any breach of Company's warranties under the Agreement and this Addendum, or any breach of Company's obligations under **Section 5** of this Addendum or any breach of Company's obligations under **Section 10.3** of this Addendum.

9. Limitation on Liability.

- 9.1. If there is any limitation in the Agreement on Company's liability to District or to any authorized user for damages, then (a) Company's liability to District or to any authorized user in connection with any Claim shall not be limited to less than the insurance proceeds payable to or on behalf of Company with respect to the Claim; and (b) any such limitation on liability shall be reciprocal as to the Parties such that District shall benefit from the same limitation on its liability under the Agreement.
- 9.2. If the Agreement contains a provision stating that Company shall not be liable to District for certain damages related to the Agreement, such as indirect, incidental, exemplary or consequential damages (including, without limitation, lost profits); then such provision shall be reciprocal such that District shall likewise not be liable to Company for such damages.
- 9.3. Notwithstanding anything contained in the Agreement to the contrary, Company shall be responsible for the maintenance, safeguarding and security of all District's Confidential Information (including, without limitation, all Client Data) and any Student PII submitted by District in connection with the Services and the use of the Licensed Products by District and any District users. Furthermore, Company expressly warrants and represents that commercially reasonable security measures will be used, by Company or any third parties (including, without limitation, the hosting service provider) in the provision of the Services, not less than industry standard practices, to protect District and District users of the Licensed Products against incidents of unauthorized access to personally identifiable information; and Company will provide District and District users protection while using the Licensed Products, including, but not limited to Company's securing all information uploaded or otherwise provided by District or its users, providing reasonable protection against viruses.

10. [Intentionally omitted.]

11. **Notices.** All notices permitted or required under the Agreement shall be given to the respective Parties at the following address, or at such other address as the respective Parties may provide in writing for this purpose:

COMPANY:

Illuminate Education, Inc.
Attn: Jeffrey Dress
6531 Irvine Center Drive
Irvine, CA 92618

DISTRICT:

Pomona Unified School District
Assistant Superintendent/
Chief Business Officer
800 South Garey Avenue
Pomona, CA 91766

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

12. **Termination.** The termination provision included as part of **Section 14** of the Agreement is hereby replaced in its entirety with the following:

12.1. The Agreement may be terminated by either Party, for any reason or no reason, during the Term of the Agreement by giving thirty (30) days' written notice to the other Party. As such, **Section 14(b)** of the Agreement is null and void.

12.2. The Agreement may be terminated by either Party in the event of a material breach of the Agreement by the other Party upon thirty (30) days written notice to the other Party.

13. **Governing Law; Venue.** The Agreement (and this Addendum) shall be governed by the laws of the State of California without regard to principles of conflict of laws. Venue for any lawsuit or claim arising out of or related to the Agreement shall be the County of Los Angeles, California; and the Parties agree to personal jurisdiction by the state and federal courts in said county.

14. **Force Majeure.** The "Force Majeure" provision included as part of **Section 15(e)** of the Agreement is hereby replaced in its entirety with the following: For a reasonable period of time, a Party hereto (the "Affected Party") will be excused from delay, breach of the Agreement, or failure in performance under the Agreement to the extent due to causes beyond its reasonable control, including without limitation, Acts of God, government action, strikes, acts of public enemies, civil disturbance or riots, war, national emergency, floods, power outages, telecommunications failures, fires, earthquakes, severe storms or other similar causes. The Affected Party will promptly inform and consult with the other party as to any of the above causes that in the Affected Party's judgment may or could cause a delay in the Affected Party's performance of the Agreement.

15. **Solicitation.** Company maintains and warrants that Company has not employed or retained any company or person, other than a bona fide employee working solely for Company, to

solicit or secure the Agreement. Further, Company warrants that Company has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Company, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, District shall have the right to rescind the Agreement without liability and Company shall refund to District all amounts paid under the Agreement.

16. Conflicts of Interest. Company shall not engage in any activity that conflicts with District. Notwithstanding any other provision contained herein, District shall have the right to immediately terminate the Agreement in the event that District determines that a real conflict of interest exists that cannot be resolved. Company shall avoid any actual conflict of interest on behalf of itself or its employees providing services under the Agreement, including, but not limited to, employment with District.
17. Attorneys' Fees. In the event of any action or proceeding (including, without implied limitation, any bankruptcy proceeding) to enforce or construe any of the provisions of the Agreement, the prevailing Party in any such action or proceeding shall be entitled to attorneys' fees and costs.
18. Assignment. Company shall not assign the Agreement or any of Company's rights or obligations thereunder to anyone. Notwithstanding the foregoing, Company may, at its sole and exclusive discretion, assign the Agreement to any third party, including any parent, subsidiary, affiliated entity, or third party, as part of the sale of any portion of its business or pursuant to any merger, consolidation or reorganization, and Company shall provide District with prompt written notice of such assignment. The Agreement shall be binding upon, enforceable by, and inure to the benefit of the Parties and their respective successors and permitted assignees.
19. Effect of this Addendum. The provisions of this Addendum shall constitute an integral part of the Agreement as if set forth therein. IN THE EVENT OF A CONFLICT BETWEEN THE AGREEMENT AND THIS ADDENDUM, THE TERMS OF THIS ADDENDUM SHALL CONTROL. All other terms and conditions of the Agreement shall remain in full force and effect, except as modified by this Addendum.
20. Public Record. Company understands and acknowledges that under the California Public Records Act (CPRA), this Agreement (and this Addendum as an integral part thereof) is a public record subject to disclosure under the CPRA, and District shall have no obligation to provide written notification to Company prior to disclosure thereof pursuant to a CPRA public records request or otherwise.
21. Authority. Company has all requisite power and authority to conduct its business and to execute, deliver and perform the Agreement and this Addendum. Each Party warrants that the persons who have signed the Agreement and this Addendum have the legal power, right and authority to make the Agreement and this Addendum and bind each respective Party.

IN WITNESS WHEREOF, the Parties have executed this Addendum as of the Effective Date.

ILLUMINATE EDUCATION, INC.
a California corporation

Richard Davidson
Richard Davidson
Chief Financial Officer

POMONA UNIFIED SCHOOL DISTRICT
a public agency of the State of California

Sandra Garcia
Sandra Garcia, Assistant Superintendent/
Chief Business Officer

Approved by Board: *6/12/19*

Approved as to Form:

MUNDELL, ODLUM & HAWS, LLP
General Counsel

[Signature]

Appendix "A"

CALIFORNIA STUDENT DATA PRIVACY AGREEMENT

Version 1.0

Lodi Unified School District

and

Illuminate Education Inc

07/01/2017

This California Student Data Privacy Agreement ("DPA") is entered into by and between the Lodi Unified School District (hereinafter referred to as "LEA") and Illuminate Education Inc (hereinafter referred to as "Provider") on 07/01/2017. The Parties agree to the terms as stated herein.

RECITALS

WHEREAS, the Provider has agreed to provide the Local Education Agency ("LEA") with certain digital educational services ("Services") pursuant to a contract dated 06/13/2017 ("Service Agreement"); and

WHEREAS, in order to provide the Services described in the Service Agreement, the Provider may receive and the LEA may provide documents or data that are covered by several federal and statutes, among them, the Family Educational Rights and Privacy Act ("FERPA") at 20 U.S.C. 1232g, Children's Online Privacy Protection Act ("COPPA"), 15 U.S.C. 6501-6502; Protection of Pupil Rights Amendment ("PPRA") 20 U.S.C. 1232 h; and

WHEREAS, the documents and data transferred from California LEAs are also subject to several California student privacy laws, including AB 1584, found at California Education Code Section 49073.1 and the Student Online Personal Information Protection Act (sometimes referred to as either "SB 1177" or "SOPIPA") found at California Business and Professions Code section 22584; and

WHEREAS, the Parties wish to enter into this DPA to ensure that the Service Agreement conforms to the requirements of the privacy laws referred to above and to establish implementing procedures and duties; and

WHEREAS, the Provider may, by signing the "General Offer of Privacy Terms", agrees to allow other LEAs in California the opportunity to accept and enjoy the benefits of this DPA for the Services described herein, without the need to negotiate terms in a separate DPA.

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

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 transmitted to Provider from the LEA pursuant to the Service Agreement, including compliance with all applicable privacy statutes, including the FERPA, PPRA, COPPA, SB 1177 (SOPIPA), and AB 1584. In performing these 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. Control duties are set forth below.
2. Nature of Services Provided. The Provider has agreed to provide the following digital educational services described below and as may be further outlined in Exhibit "A" hereto:

Illuminate Data and Assessment Management System

3. **Student Data to Be Provided.** In order to perform the Services described in the Service Agreement, LEA shall provide the categories of data described below or as indicated in the Schedule of Data, attached hereto as **Exhibit "B"**:

The System and District data will be hosted on Illuminate's servers; see Exhibit B.

4. **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 term used in the Service Agreement.

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Student Data Property of LEA.** All Student Data or any other Pupil Records 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 Parties agree that as between them all rights, including all intellectual property rights in and to Student Data or any other Pupil Records 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 LEAs as it pertains to the use of student data notwithstanding the above. Provider may transfer pupil-generated content to a separate account, according to the procedures set forth below.
2. **Parent Access.** LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review personally identifiable information on the pupil's records, correct erroneous information, and procedures for the transfer of pupil-generated content to a personal account, consistent with the functionality of services. Provider shall respond in a reasonably timely manner to the LEA's request for personally identifiable information in a pupil's records held by the Provider to view or correct as necessary. In the event that a parent of a pupil or other individual contacts the Provider to review any of the Pupil Records of 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.** Provider shall, at the request of the LEA, transfer Student generated content to a separate student account.
4. **Third Party Request.** Should a Third Party, including law enforcement and government entities, contact Provider with a request for data held by the Provider pursuant to the Services, the Provider shall redirect the Third Party to request the data directly from the LEA. Provider shall notify the LEA in advance of a compelled disclosure to a Third Party unless legally prohibited.

5. **No Unauthorized Use.** Provider shall not use Student Data or information in a Pupil Record for any purpose other than as explicitly specified in the Service Agreement.
6. **Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions pursuant to the Service Agreement, whereby the Subprocessors agree protect Student Data in manner consistent with the terms of this DPA.

ARTICLE III: DUTIES OF LEA

1. **Provide Data In Compliance With FERPA.** LEA shall provide data for the purposes of the Service Agreement in compliance with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. section 1232 g, AB 1584 and the other privacy statutes quoted in this DPA.
2. **Reasonable Precautions.** LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted data.
3. **Unauthorized Access Notification.** LEA shall notify Provider promptly of any known or suspected unauthorized access. LEA will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.
4. **District Representative.** At request of Provider, LEA shall designate an employee or agent of the District as the District representative for the coordination and fulfillment of the duties of this DPA.

ARTICLE IV: DUTIES OF PROVIDER

1. **Privacy Compliance.** The Provider shall comply with all California and Federal laws and regulations pertaining to data privacy and security, including FERPA, COPPA, PPRRA, AB 1584, and SOPIPA.
2. **Authorized Use.** The data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services stated in the Service Agreement and/or otherwise authorized under the statutes referred to in subsection (1), above.
3. **Employee Obligation.** Provider shall require all employees and agents who have access to Student Data to comply with all applicable provisions of FERPA laws with respect to the 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 shall not disclose any data obtained under the Service Agreement in a manner that could identify an individual student to any other entity in published results of studies as authorized by the Service Agreement. Deidentified information may be used by the vendor for the purposes of development and improvement of educational sites, services, or applications.
5. **Disposition of Data.** Provider shall dispose of all personally identifiable data obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained and transfer said data to LEA or LEA's designee within 60 days of the date of termination and according to a schedule and procedure as the Parties may reasonably agree. Nothing in the Service Agreement authorizes Provider to maintain personally identifiable data obtained under the Service Agreement beyond the time period reasonably needed to complete the disposition. Disposition shall include (1) the shredding of any hard copies of any Pupil Records; (2) Erasing; or (3) Otherwise modifying the personal information in those records to make it unreadable or indecipherable. Provider shall provide written notification to LEA when the Data has been disposed. The duty to dispose of Student Data shall not extend to data that has been de-identified or placed in a separate Student account, pursuant to the other terms of the DPA. Nothing in the Service Agreement authorizes Provider to maintain personally identifiable data beyond the time period reasonably needed to complete the disposition.
6. **Advertising Prohibition.** Provider is prohibited from using Student Data to conduct or assist targeted advertising directed at students or their families/guardians. This prohibition includes the development of a profile of a student, or their families/guardians or group, for any commercial purpose other than providing the service to client. This shall not prohibit Providers from using data to make product or service recommendations to LEA.

ARTICLE V: DATA PROVISIONS

1. **Data Security.** The Provider agrees to abide by and maintain adequate data security measures to protect Student Data from unauthorized disclosure or acquisition by an unauthorized person. The general security duties of Provider are set forth below. Provider may further detail its security programs and measures in in Exhibit "D" hereto. These measures shall include, but are not limited to:
 - a. **Passwords and Employee Access.** Provider shall make best efforts practices to secure usernames, passwords, and any other means of gaining access to the Services or to Student Data, at a level suggested by Article 4.3 of NIST 800-63-3. Provider shall only provide access to Student Data to employees or contractors that are performing the Services. As stated elsewhere in this DPA, employees with access to Student Data shall have signed confidentiality agreements regarding said Student Data. All employees with access to Student Records shall pass criminal background checks.
 - b. **Destruction of Data.** Provider shall destroy all personally identifiable data obtained under the Service Agreement when it is no longer needed for the purpose for which it was

obtained or transfer said data to LEA or LEA's designee, according to a schedule and procedure as the parties may reasonably agree. Nothing in the Service Agreement authorizes Provider to maintain personally identifiable data beyond the time period reasonably needed to complete the disposition.

- c. **Security Protocols.** Both parties agree to maintain security protocols that meet industry best practices in the transfer or transmission of any data, including ensuring that data may only be viewed or accessed by parties legally allowed to do so. Provider shall maintain all data obtained or generated pursuant to the Service Agreement in a secure computer environment and not copy, reproduce, or transmit data obtained pursuant to the Service Agreement, except as necessary to fulfill the purpose of data requests by LEA.
- d. **Employee Training.** The Provider shall provide periodic security training to those of its employees who operate or have access to the system. Further, Provider shall provide LEA with contact information of an employee who LEA may contact if there are any security concerns or questions.
- e. **Security Technology.** When the service is accessed using a supported web browser, Secure Socket Layer ("SSL"), or equivalent technology protects information, using both server authentication and data encryption to help ensure that data are safe secure only to authorized users. Provider shall host data pursuant to the Service Agreement in an environment using a firewall that is periodically updated according to industry standards.
- f. **Security Coordinator.** Provider shall provide the name and contact information of Provider's Security Coordinator for the Student Data received pursuant to the Service Agreement.
- g. **Subprocessors Bound.** Provider shall enter into written agreements whereby Subprocessors agree to secure and protect Student Data in a manner consistent with the terms of this Article V. Provider shall periodically conduct or review compliance monitoring and assessments of Subprocessors to determine their compliance with this Article.

2. **Data Breach.** In the event that Student Data is accessed or obtained by an unauthorized individual, Provider shall provide notification to LEA within a reasonable amount of time of the incident. Provider shall follow the following process:

- a. The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described herein under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.
- b. The security breach notification described above in section 2(a) shall include, at a minimum, the following information:
 - 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.
 - v. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
- e. At LEA's discretion, the security breach notification may also include any of the following:
- i. Information about what the agency has done to protect individuals whose information has been breached.
 - ii. Advice on steps that the person whose information has been breached may take to protect himself or herself.
- d. Any agency that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. Provider shall assist LEA in these efforts.
- e. At the request and with the assistance of the District, Provider shall notify the affected parent, legal guardian or eligible pupil of the unauthorized access, which shall include the information listed in subsections (b) and (c), above.

ARTICLE VI: GENERAL OFFER OF PRIVACY 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 this DPA 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. **Term.** The Provider shall be bound by this DPA for the duration of the Service Agreement or so long as the Provider maintains any Student Data. Notwithstanding the foregoing, Provider agrees to be bound by the terms and obligations of this DPA for no less than three (3) years.
2. **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.
3. **Effect of Termination Survival.** If the Service Agreement is terminated, the Provider shall

destroy all of LEA's data pursuant to Article V, section 1(b).

4. **Priority of Agreements.** This DPA shall govern the treatment of student records in order to comply with the privacy protections, including those found in FERPA and AB 1584. In the event there is conflict between the terms of the DPA and the Service Agreement, or with any other bid/RFP, license agreement, or writing, the terms of this DPA shall apply and take precedence. Except as described in this paragraph herein, all other provisions of the Service Agreement shall remain in effect.
5. **Notice.** All notices or other communication required or permitted to be given hereunder must be in writing and given by personal delivery, facsimile or e-mail transmission (if contact information is provided for the specific mode of delivery), or first class mail, postage prepaid, sent to the addresses set forth herein.
6. **Application of Agreement to Other Agencies.** Provider may agree by signing the General Offer of Privacy Terms be bound by the terms of this DPA for the services described therein for any Successor Agency who signs a Joinder to this DPA.
7. **Entire Agreement.** This DPA constitutes 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.
8. **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.
9. **Governing Law; Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS LOCATED IN San Joaquin COUNTY, CALIFORNIA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[Signature Page Follows]

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IN WITNESS WHEREOF, the parties have executed this California Student Data Privacy Agreement as of the last day noted below.

Illuminate Education Inc

Signature: 

Date: 07/12/17

Printed Name: Lane Rankin

Title/Position: CEO

Lodi Unified School District

Signature: 

Date: 07/12/2017

Printed Name: Leonard Kahn

Title/Position: Chief Business Officer

Note: Electronic signature not permitted.

EXHIBIT "A"
DESCRIPTION OF SERVICES

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	✓
	Other application technology meta data-Please specify	
Application Use Statistics	Meta data on user interaction with application	✓
Assessment	Standardized test scores	✓
	Other test data	✓
	Other assessment data-Please specify	✓
Attendance	Student school (daily) attendance data	✓
	Student class attendance data	✓
Communications	Online communications that are captured (forums, blog entries)	
Conduct	Conduct or behavioral data	
Demographic	Date of Birth	✓
	Place of Birth	✓
	Gender	✓
	Ethnicity or race	✓
	Language information (native, preferred or primary language spoken by student)	✓
	Other demographic information-Please specify	
Enrollment	Student school enrollment	✓
	Student grade level	✓
	Homeroom	✓
	Guidance counselor	✓
	Specific curriculum programs	✓
	Year of graduation	✓
	Other enrollment information-Please specify	
Parent/Guardian Contact Information	Address	✓
	Email	✓
	Phone	✓
Parent/Guardian ID	Parent ID number (created to link parents to students)	✓
Parent/Guardian Name	First and/or Last	✓

Category of Data	Elements	Check if used by your system
Schedule	Student scheduled courses	✓
	Teacher names	✓
Special Indicator	English language learner information	✓
	Low income status	✓
	Medical alerts	✓
	Student disability information	✓
	Specialized education services (IEP or 504)	✓
	Living situations (homeless/foster care)	✓
	Other indicator information-Please specify	
Category of Data	Elements	Check if used by your system
Student Contact Information	Address	✓
	Email	✓
	Phone	✓
Student Identifiers	Local (School district ID) number	✓
	State ID number	✓
	Vendor/App assigned student ID number	✓
	Student app username	✓
	Student app passwords	✓
Student Name	First and/or Last	✓
Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)	
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	
Student Survey Responses	Student responses to surveys or questionnaires	
Student work	Student generated content, writing, pictures etc	✓

Category of Data	Elements	Check if used by your system
Other	Other student work data - Please specify	
Transcript	Student course grades	✓
	Student course data	✓
	Student course schedule/enrollment status	✓
	Other transcript data - Please specify	✓

Category of Data	Elements	Check if used by your system
Transportation	Student bus assignment	
	Student pick up and/or drop off location	
	Student bus card ID number	
	Other transportation data - Please specify	
Other	Please list each additional data element used, stored or collected by your application	✓

EXHIBIT "C"

DEFINITIONS

AB 1584, Buchanan: The statutory designation for what is now California Education Code § 49073.1, relating to pupil records.

De-Identifiable Information (DI): De-identification refers to the process by which the Vendor removes or obscures any Personally Identifiable Information ("PII") from student records in a way that removes or minimizes the risk of disclosure of the identity of the individual and information about them.

NIST 800-63-3: Draft National Institute of Standards and Technology ("NIST") Special Publication 800-63-3 Digital Authentication Guideline.

Operator: For the purposes of SB 1177, SOPIPA, the term "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 primarily for K-12 school purposes and was designed and marketed for K-12 school purposes. For the purpose of the Service Agreement, the term "Operator" is replaced by the term "Provider." This term shall encompass the term "Third Party," as it is found in AB 1584.

Personally Identifiable Information (PII): The terms "Personally Identifiable Information" or "PII" shall include, but are not limited to, student data, metadata, and user or pupil-generated content obtained by reason of the use of Provider's software, website, service, or app, including mobile apps, whether gathered by Provider or provided by LEA or its users, students, or students' parents/guardians. PII includes, without limitation, at least the following:

First and Last Name	Home Address
Telephone Number	Email Address
Discipline Records	Test Results
Special Education Data	Juvenile Dependency Records
Grades	Evaluations
Criminal Records	Medical Records
Health Records	Social Security Number
Biometric Information	Disabilities
Socioeconomic Information	Food Purchases
Political Affiliations	Religious Information
Text Messages	Documents
Student Identifiers	Search Activity
Photos	Voice Recordings
Videos	

General Categories

Indirect Identifiers: Any information that, either alone or in aggregate, would allow a reasonable person to be able to identify a student to a reasonable certainty

Information in the Student's Educational Record

Information in the Student's Email

Provider: For purposes of the Service Agreement, the term "Provider" means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records. Within the Service Agreement the term "Provider" replaces the term "Third Party as defined in California Education Code § 49073.1 (AB 1584, Buchanan), and replaces the term as "Operator" as defined in SB 1177, SOPIPA.

Pupil Generated Content: The term "pupil-generated content" means materials or content created by a pupil during and for the purpose of education 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 pupil content.

Pupil Records: Means both of the following: (1) Any information that directly relates to a pupil that is maintained by LEA and (2) any information acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other local educational LEA employee.

SB 1177, SOPIPA: Once passed, the requirements of SB 1177, SOPIPA were added to Chapter 22.2 (commencing with Section 22584) to Division 8 of the Business and Professions Code relating to privacy.

Service Agreement: Refers to the Contract or Purchase Order to which this DPA supplements and modifies.

School Official: For the purposes of this Agreement and pursuant to 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 education records; and (3) Is subject to CFR 99.33(a) governing the use and re-disclosure of personally identifiable information from student records.

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, home address, telephone number, email address, or other information allowing 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, food purchases, political affiliations, religious information text messages, documents, student identifies, search activity, photos, voice recordings or geolocation information. Student Data shall constitute Pupil Records for the purposes of this Agreement, and for the purposes of California and Federal 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.

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

Subprocessor: For the purposes of this Agreement, 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 software, and who has access to PII. This term shall also include in it meaning the term "Service Provider," as it is found in SOPIPA.

Targeted Advertising: Targeted advertising means presenting an advertisement to a student where the selection of the advertisement is based on student information, student records or student generated content or inferred over time from the usage of the Provider's website, online service or mobile application by such student or the retention of such student's online activities or requests over time.

Third Party: The term "Third Party" as appears in California Education Code § 49073.1 (AB 1584, Buchanan) means a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records. However, for the purpose of this Agreement, the term "Third Party" when used to indicate the provider of digital educational software or services is replaced by the term "Provider."

EXHIBIT "D"
DATA SECURITY REQUIREMENTS

EXHIBIT "E"

GENERAL OFFER OF PRIVACY TERMS

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and Lodi Unified School District and which is dated 07/01/2017 to any other LEA ("Subscribing LEA") to any who accepts this 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 other LEA may also agree to change the data provided by LEA to the Provider to suit the unique needs of the 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. Provider shall notify the California Student Privacy Alliance in the event of any withdrawal so that this information may be transmitted to the Alliance's users.

Illuminate Education Inc

Signature:  Date: 07/12/17

Printed Name: Lume Rankin Title/Position: CEO

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.

POMONA UNIFIED SCHOOL DISTRICT
a public agency of the State of California

By:  Date: 8-28-19

Printed Name: Sandra Garcia Title/Position: Assistant Superintendent/
Chief Business Officer