FLOYD COUNTY BOARD OF EDUCATION
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William Newsome, Jr., Member - District 3
Rhonda Meade, Member - District 4

Date: June 4, 2018

Consent Agenda Item (Action Items): Approve the agreement between Summit Learning Program and Floyd County Schools to continue partnership for the 2018-2019 school year. Floyd Central and South Floyd Elementary will be continuing the program, Duff-Allen Central Elementary will be onboarding the program this year.

Applicable Statute or Regulation: BOE Policy 01.11 General Powers and Duties of the Board.

Fiscal/Budgetary Impact: N/A

Recommended Action: Approve as presented.

Contact Person(s): Courtney DeRossett, Chief Information Officer

CIO

Superintendent

The Floyd County Board of Education does not discriminate on the basis of race, color, national origin, age, religion, marital status, sex, or disability in employment, educational programs, or activities as set forth in Title IX & VI, and in Section 504.

FORM OF SUMMIT LEARNING PROGRAM AGREEMENT

This **SUMMIT LEARNING PROGRAM AGREEMENT** (the "Program Agreement"), is effective June 1, 2018 ("Effective Date"), and is by and between **SUMMIT PUBLIC SCHOOLS**, a California nonprofit public benefit corporation ("Summit"), having an office at 780 Broadway Street, Redwood City, California, and Kentucky (the "Partner School") on behalf of itself and the schools listed on Schedule I hereto (each of Summit and the Partner School, a "Party" and together the "Parties"), and governs Summit's provision of the Summit Learning Program (the "Program") and the Summit Learning Platform (the "Platform"), and any other products and services that the Program may provide now or in the future (collectively, the "Service" or the "Services") to the Partner School. Participation in the Program includes, among other things, the Base Curriculum (defined herein), professional development and training, ongoing support and mentorship, and access to the Services.

1. BACKGROUND

1.1 Our Mission. The mission of Summit Public Schools is to prepare a diverse student population for success in college, career and life, and to be thoughtful, contributing members of society. Inspired by the vision to equip every student to lead a fulfilled life, Summit developed its approach to teaching and learning - Summit Learning - over the course of 15 years. Today, Summit shares its work to have broader impact by helping schools bring Summit Learning to their classrooms for free, through the Summit Learning Program.

1.2 Our History. Established in 2003, today, Summit has 11 schools in California and Washington. Since 2015, Summit has supported an additional 330 schools across the nation through the Summit Learning Program, helping them bring Summit Learning to their classrooms, for free. Developed by teachers for teachers, the Summit Learning Program gives schools the tools, resources and professional development to implement and tailor Summit Learning for their communities.

1.3 Our Organization. Summit is a charter public school system, which a group of parents, teachers, and administrators founded in 2000. Summit was established as a California nonprofit public benefit corporation organized and operated for charitable and educational purposes as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

1.4 Selection & Agreement to Participate. Summit has selected the Partner School to participate in the Program and invites the Partner School to take advantage of the grant of the Program. By signing this Program Agreement, an authorized representative of the Partner School agrees to the terms of this Program Agreement, and the Summit Learning Platform Terms of Service (the "Terms of Service") and the Data Privacy Addendum (the "Data Privacy Addendum"), which are incorporated herein.

- This Program Agreement establishes a collaboration between Summit and the Partner School and sets forth the legal terms governing the Program and the Services.
- The Terms of Service, attached as Exhibit A hereto, set forth the requirements that the Partner School and its teachers, employees, officials, agents, and the parents and legal guardians of its currently enrolled students (collectively, "Licensed Users") agree to follow in order to use the Services.
- The Data Privacy Addendum attached as Exhibit B hereto governs Student Data (as defined therein) transmitted to Summit from the Partner School pursuant to this Program Agreement and the Terms of Service.

1.5 Collaboration. By signing this Program Agreement, Summit and the Partner School agree to work together in good faith to implement personalized learning supported by the Program and the Services. In connection with the Partner School's participation in the Program, Summit expects the Partner

School to communicate regularly about needs, opportunities, and progress, as well as goals, priorities, and timelines for the ongoing evolution of the Program and the Services.

1.6 **Cost.** There is no cost to the Partner School, and Summit will not charge the Partner School or its Users (defined herein) to use the Program or the Services.

1.7 **Summit Learning.** Summit Learning ("Summit Learning") combines Summit's values, what science reveals about how students learn best, and cutting-edge research into a school experience that can be tailored to every community's needs. As part of the Program, participating schools receive the grant of Summit Learning described in Section 2 below.

2. GRANT OF THE PROGRAM AND THE SERVICES

2.1 **Curriculum and Assessments.** Summit will provide access to the Base Curriculum (the "Base Curriculum"), which will include projects, playlists of content, and assessments from which the Partner School can build upon and modify in order to meet the needs of their communities, district and/or state. The Base Curriculum includes standards-based curricula and assessments for English, math, science, and social studies (grades 4–12) and a sampling of additional elective courses.

Subject to this Program Agreement and the Terms of Service, Summit grants permission to teachers, employees, officials, and agents at the Partner School to adapt or create new focus areas and projects. In connection therewith, Summit will provide to the Partner School (i) access to the curriculum team; (ii) access to support when building out resources and projects that are in line with Summit Learning; and (iii) the ability to submit resources for Summit to review and consider for addition to the Base Curriculum.

2.2 **Ongoing Support.** Summit shall provide ongoing support and coaching to the Partner School through the provision of a mentor (a "Summit Learning Mentor") during the first four school years in which the Partner School participates in the Program. In connection therewith, Summit agrees to make available to the Partner School:

- A Summit Learning Mentor who will provide support through regular weekly or bi-weekly coaching calls, and to the extent the Partner School and Summit deem necessary, school visits, in order to support the Partner School through the change management process as the Partner School implements Summit Learning;
- Access to a nationwide community of Summit Learning educators and an invitation to share best practices, challenges and more;
- Access to a library of resources (e.g. presentation templates for parent nights, Summit Learning classroom posters, etc.); and
- Access to webinars, on-demand training sessions, and in-person training sessions and workshops from a range of Summit Learning teams, including engineering and communications.

2.3 **Professional Development.**

A. **Professional Development in Year One, Year Two, and Year Three.** Pursuant to this Program Agreement, Summit shall provide professional development services for the teachers and administrators whom the Partner School designates to participate in the implementation and launch of Summit Learning at the Partner School (collectively, the "Implementation Team"). The Partner School shall ensure that members of the Implementation Team follow guidelines issued by Summit from time to time relating to the

professional development services, including business rules and deadlines relating to Summer Trainings (defined herein) and Regional Convenings (defined herein), Summit shall provide the professional development services to members of the Implementation Team during the first school year ("Year One"), second school year ("Year Two"), and third school year ("Year Three") of the Term of this Program Agreement as set forth below:

(1) **Year One of Program Implementation**. During Year One of the Partner School's use of the Program:

- Summit agrees to provide professional development services to the Partner School's Implementation Team during the Summer of Year One. Summit expects these professional development activities to help the Partner School set up the launch of Summit Learning in the new school year.

- Summit shall provide professional development services in the Fall and Spring of Year One through Regional Convenings.

(2) **Year Two of Program Implementation**. During Year Two of the Partner School's use of the Program:

- Summit agrees to provide professional development services to selected teachers from the Partner School during the Summer of Year Two to assist preparations for the start of the upcoming school year.

    - The Partner School shall select new grade level teams and up to three (3) teachers. The Partner School shall select only teachers who are entering Summit Learning classrooms and have not previously taught Summit Learning.

- Summit shall provide professional development services in the Fall and Spring of Year Two through Regional Convenings.

(3) **Year Three of Program Implementation**. During Year Three of the Partner School's use of the Program:

- Summit shall provide professional development services to selected teachers from Partner School during the Summer of Year Three to assist preparations for the start of the upcoming school year.

    - The Partner School shall select new grade level teams and, if any teachers trained in Summit Learning are no longer with the Partner School, the Partner School may select a replacement teacher for each departed teacher, but no more than six (6) replacement teachers. The Partner School shall only select teachers who are entering Summit Learning classrooms and have not previously taught Summit Learning.

- Summit shall provide professional development in the Fall and Spring of Year Three through Regional Convenings.

B. Professional Development in Year Four. Summit shall provide professional development services to the Partner School during the fourth year ("Year Four") of the Term of this Program Agreement if Partner School is a member of Cohort 1, Cohort 2, or Cohort 3 (each as defined herein).

C. **Cohorts.**

(1) **Cohort 1 and Cohort 2.** Summit will provide up to four (4) years of Professional Development support, inclusive of any and all prior years of support, through summer trainings (each, a "Summer Training") and regional convenings (each, a "Regional Convening") to partner schools that began student use of the Program during the 2015-16 school year ("Cohort 1") and the 2016-17 school year ("Cohort 2").

(2) **Cohort 3.** Summit will provide Summer Trainings and Regional Convenings for up to three (3) years, inclusive of any and all prior years of support, through to partner schools that began student use of the Program during the 2017-18 school year; provided, however, that, Summit will provide one (1) additional year of support through Summer Trainings and Regional Convenings if such partner school adds a new team of grade level teachers who teach the core classes and increases the number of students in the Program.

(3) **Cohort 4.** Summit will provide Summer Trainings and Regional Convenings for up to (3) years for partner schools that commence student use of the Program during the 2018-19 school year ("Cohort 4").

D. **Additional Schools.** If the Partner School is a school district and Summit approves the participation of additional schools within such school district in Summit Learning, then Summit and the Partner School agree to update Schedule I to this Program Agreement. Notwithstanding any update to Schedule I, both parties acknowledge the Effective Date of this Program Agreement will be the date originally set forth above.

3. GRANT REQUIREMENTS AND COMPLIANCE

3.1 **General.** In connection with its selection as a Partner School and in order to launch and implement Summit Learning in the Partner School, Partner School agrees to:

- Follow the program requirements posted on the Summit Learning Website under the caption "Program Requirements", which are incorporated by reference into this Program Agreement;
- Follow the technical requirements posted on the Summit Learning Website under the caption "Technical Requirements", which are incorporated by reference into this Program Agreement;
- Send new Summit Learning teachers and designated teachers and school administrators to Summer Trainings and Regional Convenings; and
- Communicate regularly with the Summit Learning Mentor (i.e. at least 30 minutes weekly or 60 minutes bi-weekly, in addition to regular email communication).

3.2 **Access to the Services.** Partner School agrees to limit access to the Program and the Services to students currently enrolled in the Partner School with an account on the Services ("Student Users"). In addition, Partner School agrees to limit access to the Program and the Services to the parents and legal guardians of Student Users, and the teachers, employees, officials, or agents ("Licensed Users") who have accepted the Terms of Service. The Student Users and Licensed Users are, collectively, referred to herein as the "Users".

3.3 **Compliance with Program Agreement, Data Privacy Addendum, and Terms of Service.** The Partner School's use of the Services must be in compliance with this Program Agreement, the Data

Privacy Addendum, and the Terms of Service. The Partner School will provide information and education, and where needed create policies and regulations, to ensure that all of its Users comply with the Terms of Service, and where applicable this Program Agreement and Data Privacy Addendum.

In the event a User violates this Program Agreement, Data Privacy Agreement, or Terms of Service, the Partner School shall promptly notify Summit and shall cooperate with Summit in taking reasonable steps to remediate such violations. Notwithstanding the foregoing, Summit reserves the right to immediately suspend any User or the Partner School in its sole discretion for any reason (with or without cause) and terminate the Partner School in accordance with Section 5 hereof.

4. INTELLECTUAL PROPERTY

4.1 Intellectual Property. The Program and Services may contain material derived in whole or in part from material supplied by Summit as well as other sources, and such material is protected by United States copyright laws, international treaty provisions, trademarks, service marks and other intellectual property laws. All rights to the Program and the Services not expressly granted in this Program Agreement, Terms of Service, and Data Privacy Addendum are reserved by Summit. The Partner School and its Users shall abide by the intellectual property provisions set forth in the Terms of Service and all applicable copyright and other intellectual property laws.

5. TERM AND TERMINATION

5.1 Term.

A. This Program Agreement shall commence on the Effective Date, and shall terminate in accordance with subsections 5.1.B or 5.1.C, as applicable, or on such earlier date as set forth in Section 5.2, Section 5.3, and Section 5.4 hereof.

B. If the Partner School is an individual school, this Program Agreement will terminate on the date that is four (4) years after the date on which the Partner School's students first begin using the Services.

C. If the Partner School is a school district, this Program Agreement will terminate on the date that is four (4) years after the date on which the students attending the last school to join Summit Learning first begin using the Services. Summit will provide the Summit Learning Services to each school within the Partner School school district for a period of four (4) years after the date on which the students in such school first begin using the Services.

5.2 Notice of Intent to Terminate. Either Party may terminate this Program Agreement for its convenience, by giving at least thirty (30) days' written notice to the other Party.

5.3 Breach of Agreement. Either Party (the "Non-breaching Party") may terminate this Program Agreement, effective immediately upon delivery of written notice to the other Party ("Breaching Party") if the Breaching Party materially breaches any provision of this Program Agreement and does not cure the breach within thirty (30) days after receiving written notice thereof from the Non-breaching Party.

5.4 Compliance with Program Requirements. To the extent Summit determines that Partner School is not substantially in compliance with the Program Requirements, Summit reserves the right to suspend or terminate this Program Agreement effective immediately.

5.5 **Survival.** In the event of termination, the following provisions will survive: Section 7 (Representation and Warranties of Summit), Section 8 (Limitation on Liability), Section 9 (Notices), Section 10 (Governing Law), and Section 11 (General Provisions).

6. INDEMNIFICATION

6.1 **Indemnification of the Partner School.** To the extent permissible under applicable state law, Summit shall defend, indemnify, and hold harmless the Partner School, its officers, employees, and agents, assignees and successors-in-interest from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages, and liabilities of any kind resulting from or arising out of Summit's performance under this Program Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by the negligence, recklessness, willful misconduct, or intentional acts or omissions of Summit, its officers, employees, or agents. Such indemnification shall be subject to the limitation of liability in Section 8.

6.2 **Indemnification of Summit.** To the extent permissible under applicable state law, the Partner School shall defend, indemnify and hold harmless Summit, its officers, employees, and agents, assignees and successor in interest from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages, and liabilities of any kind resulting from or arising out of the Partner School's performance under this Program Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligence, recklessness, willful misconduct or intentional acts or omissions of the Partner School, its officers, employees, or agents. Such indemnification shall be subject to the limitation of liability in Section 8.

6.3 **Status and Defense of Claims**. The indemnifying Party shall keep the other Party reasonably apprised of the continuing status of the claim, including any proceedings resulting from it, and shall permit the indemnified Party, at its expense, to participate in the defense or settlement of the claim, provided, however that the indemnifying Party has the sole control of the defense. The indemnified Party shall reasonably cooperate with the indemnifying Party in defending the action, and the indemnifying Party will not agree to settle or otherwise resolve the action without the consent of the indemnified Party, which consent shall not be unreasonably withheld.

7. REPRESENTATIONS AND WARRANTIES OF SUMMIT

7.1 **General.** Summit represents and warrants that the following shall be true and correct as of the Effective Date of this Program Agreement and shall continue to be true and correct during the Term of this Program Agreement:

A. **Program and Service Operation.** During the Term of this Program Agreement, Summit shall use commercially reasonable efforts to ensure that the Program and the Services shall function properly. Summit shall use commercially reasonable efforts designed to promptly correct any failure of the Program and the Services to perform as described in this Program Agreement.

B. **Changes to Program and the Services.** From time to time, Summit may implement changes and improvements to the Services, including by conducting maintenance, updating the functionality and look of the Services, and adding or removing functionalities or features. We may also stop providing the Services to Partner School or its Users, or add or create new

limits to the Services or restrict Partner School's or its Users' access to all or a part of the Service at any time.

C. **Publicity.** Summit shall not issue publicity news releases, grant press interviews, or use any Student Data or Content, including but not limited to the Partner School's logos, without the prior express written consent of a representative from the Partner School. Furthermore, Summit may not photograph or film or cause others to photograph or film within any of the Partner School facilities without the prior express written consent of Partner School.

7.2 **Additional Obligations Regarding Treatment of Student Data.** Summit agrees to the obligations set forth in the Data Privacy Addendum regarding the handling of Student Data and Personally Identifiable Information.

8. LIMITATION ON LIABILITY TO PARTNER SCHOOLS

EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 8, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES ARISING FROM ANY CLAIM OR ACTION BASED ON CONTRACT, TORT OR OTHER LEGAL THEORY. SUMMIT SHALL NOT BE LIABLE FOR PARTNER SCHOOL'S INABILITY TO USE THE PROGRAM OR THE SERVICES DUE TO (I) SCHEDULED DOWNTIME, WHICH SUMMIT WILL ATTEMPT TO SCHEDULE WHEN SCHOOL IS NOT IN SESSION AND ABOUT WHICH SUMMIT WILL GIVE PARTNER SCHOOL 14 DAYS ADVANCE WRITTEN NOTICE; (II) UNAVAILABILITY DUE TO FACTORS OUTSIDE OF SUMMIT'S REASONABLE CONTROL, INCLUDING WITHOUT LIMITATION, ACTS OF GOD, ACTS OF GOVERNMENT, FLOOD, FIRE, EARTHQUAKES, CIVIL UNREST, ACTS OF TERROR, STRIKES OR OTHER LABOR PROBLEMS (OTHER THAN THOSE INVOLVING SUMMIT'S EMPLOYEES); (III) UNAVAILABILITY THAT RESULTS FROM EQUIPMENT AND/OR SOFTWARE OF THIRD PARTIES WHERE SUCH EQUIPMENT AND/OR SOFTWARE IS NOT WITHIN THE REASONABLE CONTROL OF SUMMIT; (IV) UNAVAILABILITY CAUSED BY ABUSE OR MISUSE OF THE SERVICES OR PROGRAM (OR ANY COMPONENT THEREOF) BY PARTNER SCHOOL OR ITS USERS; OR (V) UNAVAILABILITY CAUSED BY USE OR MAINTENANCE OF THE SERVICES OR PROGRAM BY PARTNER SCHOOL IN A MANNER NOT MATERIALLY CONFORMING TO THE GUIDANCE PROVIDED BY SUMMIT OR IN THIS PROGRAM AGREEMENT. SUMMIT'S AGGREGATE LIABILITY TO THE PARTNER SCHOOL UNDER ANY THEORY OR FOR ANY REASON SHALL NOT EXCEED $10,000.

9. NOTICES

9.1 **General.** Unless stated otherwise in this Program Agreement, Terms of Service, or Data Privacy Addendum, all notices required by or relating to this Program Agreement shall be in writing and shall be sent by means of certified mail, postage prepaid, to Summit and the Partner School, including any participating school therein, if any, and addressed to Summit as set forth below or addressed to the Partner School and any school therein, if any, as set forth in Schedule I or addressed to such other address as may have given by written notice in accordance with this provision:

If to Summit: Summit Public Schools
780 Broadway Street
Redwood City, CA 94063
Attn: Summit Learning Program

All notices, communications, or consents required by or relating to this Program Agreement may also be communicated by electronic mail to Summit at support@summitlearning.org and to the Partner School at the email address set forth on Schedule I, provided that the sender receives and retains confirmation of successful transmittal to the recipient. Notices shall be effective three (3) business

days after receipt of delivery by the U.S. Post Office or one (1) day after deposit with a commercial overnight courier.

9.2 **Principal Contact Person.** Any notices, communications, or consents required by or relating to this Program Agreement from Summit to the Partner School will be sent to the attention of the person(s) listed on Schedule 1 (the "Principal Contact Person"). The Principal Contact Person shall be authorized to act on behalf of the Partner School and to make decisions for the Partner School.

10. GOVERNING LAW

This Program Agreement will be governed by and construed in accordance with the laws of the State of California. The Parties further submit to and waive any objections to the personal jurisdiction of and venue in San Mateo County, California for any litigation arising out of this Program Agreement.

If the Partner School is a United States public and accredited educational institution, then (a) this Program Agreement will be governed and construed in accordance with the laws of the state (within the United States) in which the Partner School is domiciled, except that body of law concerning conflicts of law; and (b) any litigation or other dispute resolution between the Partner School and Summit arising out of or relating to this Program Agreement, the Services, or the Partner School's relationship with Summit will take place in federal court within the Northern District of California, and the Partner School and Summit hereby consent to the personal jurisdiction of and exclusive venue of the Northern District of California unless such consent is expressly prohibited by the laws of the state in which the Partner School is domiciled.

11. GENERAL PROVISIONS

11.1 **Entire Agreement**. This Program Agreement and exhibits attached hereto constitute the final and entire agreement between the Parties regarding its subject matter, and supersede all other related oral or written agreements or policies. 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 unless expressly waived in writing and signed by a duly authorized representative of Summit. No single waiver shall constitute a continuing or subsequent waiver.

11.2 **Relationship of the Parties.** This Program Agreement will not be construed as creating any agency relationship, or a general partnership, limited partnership, limited liability partnership, joint venture, fiduciary duty, or any other form of legal association between the Partner School and Summit, and the Partner School will not represent to the contrary, whether expressly, by implication, appearance or otherwise. Except as otherwise expressly provided in this Program Agreement, this Program Agreement is not for the benefit of any third parties. Neither Party will make any commitment, by contract or otherwise, binding upon the other Party or present that it has the authority to do so.

11.3 **Assignment; Resale; No Waiver.** This Program Agreement will be binding upon and inure to the benefit of all of Summit's and the Partner School's successors and assigns, which will be bound by all of the obligations of their predecessors or assignors.

11.4 **Modifications and Severability.** This Program Agreement may be modified only: (a) by a written amendment signed by both Parties, or (b) to the extent expressly permitted by this Program Agreement (e.g., by Summit upon notice to the Partner School). In the event that the Partner School refuses to accept such changes, Summit will have the right to terminate this Program Agreement in accordance with Section 5 hereof. If any provision of this Program Agreement or the exhibits attached hereto is found to be unenforceable or invalid, such unenforceability or invalidity will not render this Program Agreement unenforceable or invalid as a whole and, in such event, such provision is to be

changed and interpreted so as to best accomplish the objectives of such provision within the limits of applicable law.

11.5 Material Modifications to Privacy Policy. If Summit makes any material changes to its Privacy Policy, it shall provide advance notice via electronic communication to the Partner School's Principal Contact Person before the effective date of such changes.

11.6 Material Modifications to Terms of Service. If Summit makes any material changes to the Terms of Service, it shall provide advance notice via electronic communication to the Partner School's Principal Contact Person before the effective date of such changes.

11.7 Priority of Agreements. This Program Agreement shall govern the relationship between the Partner School and Summit. If there is a conflict between this Program Agreement and the Terms of Service, Data Privacy Addendum, or any other agreement between the Partner School and Summit (collectively, "Other Documents"), the terms of this Program Agreement shall apply and take precedence unless specifically provided otherwise in this Program Agreement or the Other Documents. In the event of any conflict between the terms of the Other Documents, the conflict shall be resolved in favor of the Terms of Service, unless specifically provided otherwise in the Other Documents, such as with respect to the treatment of Student Data for which the terms of the Data Privacy Addendum shall apply and take precedence.

11.8 Section Headings. Section headings have been inserted in this Program Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not part of this Program Agreement and will not be used in the interpretation of any provisions of this Program Agreement.

IN WITNESS WHEREOF, the undersigned have duly authorized, executed and delivered this Program Agreement as of the date written below.

SUMMIT PUBLIC SCHOOLS

By (Signature): _____
Name (Printed): _____
Title: _____

_____,
as PARTNER SCHOOL

By (Signature): _____
Name (Printed): _____
Title: _____

Dated: _____ 2018

SCHEDULE I
PARTNER SCHOOL/PARTICIPATING SCHOOLS

Name of School	Cohort Number	Principal Contact Person

EXHIBIT A
TERMS OF SERVICE

SUMMIT LEARNING PLATFORM TERMS OF SERVICE

Last Update: _____ You can view past versions of the Terms of Service here.

Welcome, and thank you for your interest in the Summit Learning Platform (the "Platform")! We provide the Platform directly to schools and school districts pursuant to separate Program Agreements.

PLEASE READ THE TERMS CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION BECAUSE USING THE SERVICES INDICATES THAT YOU, AS A USER OR AS THE PARTNER SCHOOL, ACCEPT AND AGREE TO BE BOUND BY THEM.

PLEASE NOTE THAT THESE TERMS CONTAIN A DISPUTE RESOLUTION AND BINDING ARBITRATION PROVISION IN SECTION 11 HEREOF, INCLUDING A CLASS ACTION WAIVER THAT AFFECTS YOUR RIGHTS UNDER THESE TERMS AND WITH RESPECT TO DISPUTES YOU MAY HAVE WITH THE SERVICES.

We, at Summit, have done our best to write the Terms in simple and clear terms. In order to facilitate your understanding of the Terms, we have added a column on the right side of this page that provides short explanations of the legal language in plain English (it starts with, "In essence…). The plain English explanations **are not** legally binding, but they may be helpful.

Quick Reference

- Agreeing to our Terms
- The Services
- Your Use of the Services
- Privacy and Security
- Your Information and Content
- Links, Third-Party Content, and Third-Party Websites
- User Disputes and Releases
- Termination and Suspension
- Additional Terms by User Type
- Liability, Warranty Disclaimers, and Other Legal Information
- Governing Law and Dispute Resolution
- Modification
- Miscellaneous
- Contact Information

1. AGREEING TO OUR TERMS

Summit Public Schools ("Summit," "we," or "us"), a California nonprofit public benefit organization and a 501(c)(3) nonprofit organization, owns and operates the services offered on www.summitlearning.org, including the Platform, and any other products and services that the Summit Learning Program may provide now or in the future (collectively, the "Service" or "Services").

In essence...By signing up to use the Service, you agree to these terms. Welcome to the Summit Learning community!

Summit offers the Services to schools and school districts ("each, a "Partner School"), and at such Partner Schools' discretion, to (a) students currently enrolled in Partner Schools ("Student Users"), (b) the parents and legal guardians of Student Users, and (c) Partner Schools' teachers, employees, officials, or agents ("School Personnel") ((b) and

(c) collectively, "Licensed Users" and Licensed Users together with Student Users, "Users"). A Licensed User or Partner School may be referred to herein as "you".

By accessing or using the Services, and, in the case of Partner Schools, by executing the Program Agreement, you acknowledge you have read and agree to these Terms of Service (the "Terms"), which are a legal contract between you and Summit. If you accept these Terms on behalf of a Partner School as an authorized representative thereof (an "Authorized Representative"), you represent that Partner School has executed a Program Agreement and you have the authority to bind such entity to the Terms, in which case the terms "you", "your" or "Member" shall refer to such entity.

Users will also be subject to the Privacy Policy and any posted guidelines, policies or rules applicable to specific features of the Services, which may be posted from time to time (collectively, the "Guidelines"), which are hereby incorporated by reference. If there is any inconsistency between the Terms and any of the Guidelines, the additional Guidelines will prevail to the extent of the inconsistency. For a Partner School and/or its Authorized Representative, when used herein, "Agreement" shall refer to these Terms, the Program Agreement, the Data Privacy Addendum and the Guidelines. For Licensed Users, when used herein, "Agreement" shall refer to these Terms and the Guidelines.

If you are not an Authorized Representative of a Partner School or if you, as a Licensed User, do not agree with these terms and conditions, you must not accept these Terms and you may not use the Services.

The right to access and use the Services is revoked in jurisdictions where it may be prohibited, if any.

2. THE SERVICES

2.1 License to Use the Services

Summit grants Student Users, Licensed Users, and Partner Schools, the non-exclusive, non-assignable, non-transferable, limited right to access and use for no charge the Services during the term of the Program Agreement solely for noncommercial educational purposes and subject to the Agreement. Please note, however, that your carrier's normal rates and fees, if any, apply to any component of the Services utilizing mobile services, such as text/SMS messaging and data.

Summit grants Partner School and its Licensed Users a non-exclusive, non-assignable, non-transferable, limited right and for no charge to use, download, copy, modify, perform, or display educational materials made available in the Services or Program for noncommercial, in-class instructional purposes during the term of the Program Agreement.

In essence....By signing up for the Summit Learning Program, you have free access to the Platform and the educational materials posted on the Platform as long as you use them for your education. We ask that you read through the rules contained in these Terms of Service to understand the ways in which you can and can't use the Services.

2.2 Intellectual Property

The Services and the Summit Technology are intended solely for the personal, non-commercial use of our users and may only be used in accordance with this Agreement. "Summit Technology" means all past, present and future content of the Service, including, all the software, hardware and technology used to provide the Services (including Summit proprietary code and third-party software), user interfaces, materials displayed or performed on the Services, such as text, graphics, articles, photographs,

In essence... You are free to use the Platform and develop content for Summit Learning. However, using the Services will not give you

images, illustrations and the design, structure, sequence and "look and feel" of the Services, and derivative works thereof and all other intellectual property, including all Summit Marks. "Summit Marks" means the trademarks, service marks, logos, or any other trade name, trademarks, service marks and other distinctive or proprietary brand features of Summit.

ownership rights to any of Summit's intellectual property. In order to use the Services, each party to this Agreement must comply with all applicable copyright, trademark, and other intellectual property laws.

Summit Technology is protected by copyright and other intellectual property laws. Using our Service does not give you ownership of any intellectual property rights in the Services or the Summit Technology. You agree that, as between you and Summit, all the intellectual property rights in the Services and Summit Technology, which does not include User Content (as defined below), are owned by Summit or its licensors, and all rights to the Services not expressly granted herein are reserved by Summit. These terms do not grant you the right to use any Summit Marks.

You agree to protect Summit Technology and to abide by all copyright and other intellectual property laws, and to notify Summit of any unauthorized access or use of the Services.

2.3 Copyright Protection

It is Summit's policy to respond to notices of alleged copyright infringement that comply with the Digital Millennium Copyright Act ("DMCA"). For more information, please go to Summit's DMCA Notification Guidelines. Summit may remove any allegedly infringing content without any liability to you. Summit will promptly terminate without notice any User's access to the Service where the User is a "repeat infringer" of copyrights. Summit, however, reserves the right to identify and terminate Users under any circumstances it deems appropriate, including after only a single instance of allegedly infringing behavior by that User.

In essence.... This section explains how Summit will respond to claims a User has infringed upon someone else's copyright.

2.4 Restrictions on Use

You agree not to, and shall use commercially reasonable efforts to ensure that third parties do not:

In essence...We require each User to use the Services responsibly. In addition, each User should make sure that third parties use the Services responsibly as well.

- license, sell, rent, lease, loan, assign, distribute, host or otherwise commercially exploit, make available, or sell access to the Services or the Summit Technology to third parties except as specifically permitted under these Terms;
- use, store, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, create derivative works from, display, license, sell or otherwise exploit the Summit Technology for any purposes other than as expressly permitted under this Agreement;
- reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Services, or any component thereof;
- build or support (and/or assist a third-party in building or supporting) products or services in competition with Summit, by any means whatsoever or access the Service to build a product using similar ideas, features, functions, interface or graphics of the Service;
- remove, obscure, or alter any copyright, logo, trademark, or other legal notices displayed in or along with our Services and/or any related assets or otherwise use any of Summit Technology in any manner that creates the impression that such Summit Technology belongs to you or that your use is associated with or with Summit's consent except as otherwise provided herein; or

- circumvent, disable or otherwise interfere with security related features or features that prevent or restrict use or copying of any User Content or Summit Technology or enforce limitations on use of the Service or the User Content and Summit Technology.

2.5 Changes to the Services

From time to time, Summit may implement changes and improvements to the Services, including by conducting maintenance, updating the functionality and look of the Services, and adding or removing functionalities or features. We may also stop providing the Services to you, or add or create new limits to the Services or restrict your access to all or a part of the Service at any time without liability.

You agree that Summit shall not be liable to you, Partner School, or any third party for any modification, suspension or termination of the Services.

Summit commits to ensuring the continued availability and basic functional performance of the Services and the Program, regardless of any updates that may be implemented, other than routine or periodic maintenance or as set forth in the Program Agreement.

We believe that Users own User Content and that preserving access to such User Content is important. If we discontinue a component of the Services that would affect such access, where reasonably possible, we will give you the opportunity to get such User Content out of that part of the Services. Please see our FAQ for more information.

In essence....Summit wants to ensure you can access the Platform at any time you wish to use the Services. Occasionally, we perform maintenance or install improvements to ensure that the Services run smoothly. Accordingly, the Platform might be briefly unavailable from time to time.

You can use the Platform as long as you don't violate these terms and any applicable law.

In addition, we know the content you provide to the Platform is very important to you. Accordingly, we'll give you the opportunity to retrieve your content from the Platform if we change or discontinue a component of the Services.

3. YOUR USE OF THE SERVICES

3.1 Account Registration & Access

You may be asked to register for an account in connection with the Services ("User Account"). Alternatively, a Partner School may create accounts (each, an "Administrator Account") for Licensed Users that are authorized to set up, access, and manage accounts for other Licensed Users and Student Users. When you register or when a Partner School creates a User or Administrator Account for you, you agree to provide accurate, current, and complete information about yourself and to promptly update this information to maintain its accuracy. You are responsible for maintaining the confidentiality of any password and username ("account credentials") that you are given or select, you will not share your account credentials with anyone, and you are responsible for all activities that occur under your account.

In essence....There are different ways to set up an account or have an account set up for you. Either way, you'll be responsible for making sure you follow these terms and making sure you protect your account.

If you have an Administrator Account, you are responsible for (a) maintaining the security and confidentiality of such account and its account credentials; (b) all activities that occur under the Administrator Account; and (c) obtaining all necessary rights, permissions, or consents to access, monitor, use, or disclose any data from accounts of other Users.

Summit reserves the right to refuse registration of or cancel a User Account or Administrator Account in our sole discretion. You may not select or use as a User Account or Administrator Account a name of another person with the intent to impersonate that person or transfer your account to anyone without express prior written consent of Summit. Summit is not liable for any losses by any party caused by an unauthorized use of your account. Notwithstanding the foregoing, you may be liable for the losses of Summit or others due to such unauthorized use.

You agree to (a) immediately notify Summit of any unauthorized use or breach of security of your account or a student's personally identifiable information, and (b) ensure that you properly log out from your account at the end of each session.

3.2 Acceptable Use of the Services

You agree that you will not use the Services to do any of the following or take action that results in any of the following:

- Making defamatory statements regarding Users, other persons, or entities, or using the Services in a commercially unreasonable manner or in any manner that would harm or disparage Summit or the Services;
- Doing anything or posting information that is abusive, harmful, threatening, harassing, defamatory, bullying, stalking, or otherwise objectionable;
- Doing anything unlawful, deceptive, misleading, illegal, unethical, malicious, or discriminatory, obscene, hateful, or sexually-explicit;
- Degrading others on the basis of gender, race, class, ethnicity, national origin, religion, sexual preference, orientation or identity, disability, or other classification or otherwise posting or approving content that: is hate speech, discriminating, threatening, or pornographic; incites violence; or contains nudity or graphic or gratuitous violence;
- Violating a person's right to privacy or publicity or otherwise collecting, using, or disclosing data, including personal information, about other Users without consent or for unlawful purposes in violation of any applicable international, federal, state or local law, statute, ordinance or regulation ("Law");
- Infringing on, misappropriating or otherwise violating the copyright, trademark, patent or other intellectual property right of any person, including rights in content available through the Services without prior written permission of Summit or the User, as applicable;
- Collecting, soliciting, or otherwise obtaining login information or accessing an account belonging to someone else;
- Accessing (or attempting to access) any service on the Services by any means other than as permitted in this Agreement or operating the Services on any computers or accounts on which you do not have permission to operate;

In essence....In order to ensure everyone has a great experience with the Service, please follow our acceptable use policies. During your use of the Services, you cannot, among other things, break the law, threaten, harass or bully anyone, violate someone else's intellectual property, interfere with the function of the Services, or send commercial advertisements. We caution you that any violations of these terms may lead us to terminate your access to the Services.

- Violating any applicable Law, or advocating illegal activity;
- Using the Services in any manner that is harmful to minors. Without limiting the foregoing, you will not transmit or post any content anywhere on the Service, including any User Submission, that violate child pornography laws or that otherwise violates any child sexual exploitation laws. Summit absolutely does not tolerate this and will report any suspected instances of child pornography, including reporting any of your User registration information, to law enforcement, including the National Center for Missing and Exploited Children;
- Facilitating or encouraging any violations of the Agreement, the Privacy Policy or our policies, including;
- Interfering with the operation, appearance, security or functionality of the Services;
- Advertising, soliciting, or transmitting commercial advertisements or any other unsolicited messages regardless of the medium;
- Impersonating a Summit employee, or any other person, or falsely stating or otherwise misrepresenting your affiliation with any person or entity;
- Uploading viruses or other malicious code, files, or programs;
- Using automated means, including spiders, robots, crawlers, data mining tools, or the like to download data from the Services, including any User Content or information, or otherwise access the Services; or
- Employing misleading email or IP addresses, or forged headers or otherwise manipulated identifiers in order to disguise the origin on any content transmitted to or through the Services.

Additionally, the unauthorized use of our Services may result in civil and/or criminal liability.

You agree to immediately notify us at acceptableuse@summitlearning.org upon learning of any known or suspected unauthorized use or access of your account or the Services.

4. PRIVACY AND SECURITY

Your privacy is extremely important to us, and we take great care to limit what we collect and how we use it, and to enable you to understand our policies. Please read our Privacy Policy which explains how we treat and protect your information when you use the Services, including Student Data. In addition, please read the model Data Privacy Addendum, a form of which Summit and your Partner School have entered into, which describes the duties and responsibilities to protect Student Data transmitted to Summit from the Partner School.

In essence....In addition to these terms, please read our Privacy Policy and the Data Privacy Addendum provided to your school. In order to protect your data, we've implemented a number of protections and restrictions.

5. YOUR INFORMATION AND CONTENT

5.1 User Content and Teacher Content

The Services enable Users and Partners Schools to provide, share or post certain content or information, including, but not limited to, audio recordings, photographs, videos, documents, online educational resources, or other materials, Student Data (as defined in the Data Privacy Addendum), Teacher Content (as defined below) and Feedback, (as defined below) (collectively, "User Content"). User Content may be used by Summit in connection with the Services and may be visible to or shared with Summit, other Partner Schools, and certain other Users. Please visit our Privacy Policy for additional information on the types of information different Users are able to provide.

In essence....The Platform provides an opportunity for teachers and users to develop and share content and provide feedback to Summit.

School Personnel may contribute educational content, create answers to assessments, create derivative works (e.g., completion of assignments, projects, etc.), and transmit said data and content within the Partner School's systems through the Services (collectively, "Teacher Content").

Partner Schools and Users may submit feedback, comments or suggestions for improvements to the Services (in written, oral, or any other form) ("Feedback").

5.2 Ownership

Consistent with applicable Law, as between Summit and you, you retain all ownership rights you have in any User Content. Summit does not claim any ownership rights in the User Content. Please note that, while you retain ownership of your User Content, any template or layout in which you arrange or organize such User Content through tools and features made available through any of our Service are not proprietary to you, and the rights to such template or layout will remain with us or our service providers.

In essence....When you share content with us, you are merely giving us permission to use the content to provide the Services to you and other users. If you own the content, you still own the content when you share it with us. Summit does not take any ownership of the content you provide to the Program.

5.3 License

A. User Content. You agree that you and your Partner School shall, jointly and severally, be responsible for any User Content you share through the Services. Partner School acknowledges and agrees that all User Content shared in the Services is the responsibility of the Partner School, and the User from whom the User Content originated. Partner School or the Licensed User, as applicable, represents, covenants, and agrees on behalf of yourself or your Student User that the submitting User has all required rights to submit, post, upload, or otherwise own, use, or disseminate the User Content it submits or uploads without violating third party rights.

In essence....If you decide to share content with us, you are giving us permission to make the content available for use by other teachers and students using the Services. Our use of any personal information you submit is subject to our Privacy Policy. Most teachers participating in Summit Learning Program actively share content. However, we understand that some

You hereby grant to Summit a limited, non-exclusive, sublicensable (as necessary to provide the Services, including distributing Teacher Content), worldwide, royalty-free, and transferable (only to a successor) right and license to:

(1) use, host, copy, store, distribute, publicly perform and display, publish (in whole or in part), modify, and create derivative works from (such as changes we make so that your content works better with our Service)

User Content as necessary to provide, improve and make the Services available to you and other Users, including through any future media in which the Services may be distributed;

(2) use, modify, prepare derivative works, publish, distribute and sublicense Feedback without any compensation to you;

(3) use and disclose metrics and analytics regarding the User Content in an aggregate or other non-personally identifiable manner (including, for use in improving our Service s);

(4) use any de-identified User Content for any lawful purpose subject to the Data Privacy Addendum; and

(5) use for other purposes permitted by the Data Privacy Addendum and the Summit Privacy Policy.

teachers may not wish to share their content with others, therefore we give teachers the opportunity to restrict sharing. In addition, teachers or their school can let us know if and when they wish to delete the content they have submitted at any time and this permission will end.

Summit will only share and use your personal information in accordance with Summit's current Privacy Policy.

B. Default License for Teacher Content. By default, if Partner School or its School Personnel contribute Teacher Content, such Teacher Content will be licensed royalty-free to Summit under the Creative Commons Attribution 4.0 License ("CC License"), which is available at https://creativecommons.org/licenses/by/4.0/. Such Teacher Content shall be available to the Partner School and its Users, but Summit may also sub-license such Teacher Content to other Users of the Platform at other schools. You acknowledge and agree that Teacher Content will be licensed under the CC License unless you "opt-out" of sharing to other schools. Such Teacher Content will continue to be licensed under the CC License until School Personnel "turns off" such sharing for that particular Teacher Content. However, you understand and agree that if you "turn-off" sharing for Teacher Content (i) the Teacher Content will be available to Licensed Users within the Partner School only; (ii) the change is prospective and does not terminate any sub-licenses to the underlying Teacher Content previously granted by Summit to any third parties (such as teachers from other schools and districts), and (iii) Summit thereafter shall not grant any additional sub-licenses for the underlying Teacher Content to third parties such as other schools.

C. License Termination. The license in Section 5.3.(A)(1) above will terminate when you or your Partner School (i) delete any User Content containing intellectual property rights (like images or videos) or personally identifiable information (such as that in Student Data); (ii) delete your account; or (iii) with respect to the ability to sub-license Teacher Content to third parties, turn off sharing of Teacher Content as set forth in 5.3(B). Such termination may not apply to User Content that has been shared with others, including previously sublicensed Teacher Content, or User Content that may be in or related to messages sent through Summit. User Content may persist in backup copies for a reasonable period of time following deletion (but will not be available to others).

5.4 Representations Regarding Teacher Content.

If Partner School or its School Personnel contribute Teacher Content under the CC License, Partner School and the School Personnel represent and warrant that Teacher Content does not contain any Student Data and that Partner School and School Personnel

In essence...If you contribute teacher content, you can't upload it unless you have the

have the right and authority to grant the license and other such rights as may be necessary.

right to share it. Also, we cannot accept teacher content if it includes personal information about students.

5.5 Your Responsibilities and Summit's Rights.

You acknowledge and agree that Summit reserves the right, at any time and without prior notice, to pre-screen, reject, move, edit, delete, or remove any User Content contributed to the Services that we, in our sole discretion, consider to be objectionable for any reason, in violation of these Terms or otherwise harmful to the Services or Users, consistent with applicable Law, but we do not assume the obligation. The submission of any User Content through any third party links or applications made available or accessible in the Services shall be subject to such third parties' terms and privacy policies. Additionally, Summit does not guarantee that we will publish any of your User Content.

In essence....we do not guarantee that we will publish any of your content or information, and although we encourage you to share content, we might remove it from the Platform for a variety of reasons including violations of our acceptable use policies. You (or your school) are responsible for making sure that you have all the rights in any information or content you submit to us, including the right to grant Summit the permission we need to provide the Service.

By submitting User Content, you represent and warrant that you have all rights in the User Content, including to disclose such User Content and to grant us the foregoing licenses to the User Content. User Content must comply with these Terms, including guidelines under the caption "Acceptable Use of the Services" and any other specific User (e.g., teacher, parent, or student) requirements. If you include links to external websites, including Third-Party Content and Websites (as described below), in User Content, you must verify the quality and substance of each external link. You are solely responsible for any such links. Summit is not liable or responsible for any links created by you, or for any damages, direct or indirect, arising therefrom.

All information posted or transmitted through the Service, including User Content, is the responsibility of the person that posted it and/or the Partner School, and Summit will not be liable for any errors or omissions in any such content. Summit cannot guarantee the identity of any other Users with whom you may interact in the course of using the Services, or the authenticity of any data which Users may provide about themselves. You access User Content at your own risk and will be solely responsible for any damage or loss to any party resulting therefrom.

6. LINKS, THIRD-PARTY CONTENT, AND THIRD-PARTY WEBSITES

The Services may include content originating from and created by other users and third parties, including information about third-party products and services; links to third-party websites that are not owned or controlled by Summit; and/or third-party applications, such as YouTube video, including, but not limited to, third-party applications that are integrated directly with the Services through application programming interfaces (each an "API") ("Third-Party Content and Websites"). Third-Party Content and Websites may allow you to interact through and communicate with third parties. The inclusion of Third-Party Content and Websites on the Services does not imply our affiliation or endorsement of such Third-Party Content and Websites. You agree that we are not responsible for any such Third-Party Content and Websites, including the accuracy, integrity, quality, legality, usefulness, safety, privacy practices or intellectual property rights of or relating to such Third-Party Content and Websites, and you access such Third-Party Content and Websites at your own risk. Summit has no obligation to monitor such Third-Party Content and Third-Party Websites. You are solely responsible for any accounts you create, data or User Content you share or store, and/or your interactions with or on Third Party Content and Websites, all of which are governed by any terms or policies for such Third Party Content and Websites. If required

In essence....The Platform includes content from other users and other entities that Summit does not own or control. If you use any third-party applications, websites or content in conjunction with the Services, you are responsible for your interactions with that content or on those applications or websites. Plus, keep in mind that those applications or websites have their own

to provide the Services, you hereby authorize and grant Summit a right to use any names, passwords, API keys or other keys for such Third Party Content and Websites solely as necessary to provide the Services you.

You understand that by using the Services you may be exposed to Third-Party Content and Websites, and that you use the Services at your own risk.

Further, you understand that by using the Services you are still required to follow our terms of Services and Privacy Policy in connection with your interactions with Third-Party Content and Websites.

terms of use and privacy policies you must follow. If you share any content from third-party applications onto our service, you are still required to follow our Terms of Service and Privacy Policy.

7. USER DISPUTES AND RELEASES

Summit is not responsible for the actions, content, information or data of other third parties, including other Users. You are solely responsible for your interactions with other Users of the Services, and any other parties with whom you interact through the Services. Summit reserves the right, but has no obligation, to become involved in any way with these disputes.

If you have a dispute with one or more Users, you release us (and our officers, directors, agents, subsidiaries, joint ventures and employees) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such disputes, including damages for loss of profits, goodwill, use, privacy or data.

In essence....There are many users who utilize the Platform. Although we expect every user to follow our guidelines, we are not responsible for the actions or submissions of users. We'll enforce our acceptable use guidelines, but we won't get involved in disputes between users.

8. TERMINATION AND SUSPENSION

These Terms shall remain in full force and agreement while you use the Services unless your account is terminated as provided in the Agreement.

Certain Licensed Users may terminate their use of the Services; provided, however, that their Partner School may require satisfaction of certain requirements prior to termination of Administrator Accounts or accounts of School Personnel. If you wish to terminate your account, you must start the process by contacting your Partner School.

You acknowledge that, if you knowingly, intentionally or negligently violate these Terms, Summit may suspend your and/or Partner School's license to the Program and the Services, in whole or in part, until the violation is stopped or terminate your and/or Partner School's license to the Program and the Services. In the event that the Partner School fails to correct the violation after reasonable notice from Summit, Summit may terminate Partner School's license to the Services, in whole or in part, as necessary to stop the violation. Partner School agrees and acknowledges that if Partner School or any of its Users violates the terms of this Section 8, Summit shall bear no responsibility or liability for any damages or claims resulting from or in connection with such actions. In the event Summit suspends or terminates a User's use of the Services or account, Summit will promptly provide notice to the Principal Contact Person at your Partner School.

Upon termination of your account, your right to use the Service will immediately cease. All provisions of this Agreement which, by their nature, should survive termination, shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, and limitations of liability.

In essence....We might suspend or terminate your account if you violate our rules or the law. If we suspend or terminate you, we will provide notice to your school. If you wish to terminate your account, your school can tell you if you are eligible and what the process will be.

9. ADDITIONAL TERMS BY USER TYPE

9.1 School Personnel

If you are School Personnel accessing the Services on behalf of a Partner School, you agree that you are acting on behalf of (or have permission from) your Partner School to accept the Agreement and to use the Services. You must obtain any necessary approvals from your Partner School's authorities and administrators before using the Services. Upon termination of your employment, engagement, or contractual relationship with the Partner School, you must cease use of the Services and return and cease using all login information in your possession. If at any time you learn a user of the Services claims to be affiliated with your Partner School who is not, in fact, affiliated with your Partner School, you agree to notify Summit immediately at info@summitlearning.org.

In essence....Before you use the Services, your school must give you permission.

9.2 Students

A. Authorization to Use the Services. Partner School and its Authorized Representative understand and acknowledge that (1) the Children's Online Privacy Protection Act ("COPPA") does not directly apply to nonprofit organizations such as Summit; (2) COPPA sets forth guidelines regarding the collection and use of personal information from children under 13 years of age; (3) Summit voluntarily complies with COPPA's guidelines regarding Student Users under the age of 13; and (4) by entering into the Agreement, Partner School has authorized Summit to collect and use certain personal information from Student Users under 13 years of age as set forth in the Agreement. Please see our FAQ and OnGuard Online for more information.

In essence....Students can't use the Services unless their school gives them permission. Please contact your school to determine whether your school has additional requirements that must be satisfied before a student can use the Service.

Partner School, through Authorized Representatives or Administrator Accounts, may grant permission to Student Users to have User Accounts and use the Services. School Personnel understand and acknowledge that Student Users are not authorized to use the Services unless a Partner School has granted permission to such Student Users for the Student Users to have User Accounts and use the Services. If School Personnel create User Accounts for Student Users, School Personnel acknowledge and agree School Personnel has authority from the Partner School to do so.

Partner School will be solely responsible (and hereby agrees that Summit is not responsible) for: (1) providing any legally required notices and obtaining any necessary permissions, including permissions under COPPA for children under 13 years of age for Student Users to use the Services; and (2) providing any legally required means for a parent or legal guardian to review or correct any Student Data in the Services. Under no circumstances will Summit be liable for the School Personnel's failure to consult their school's authorities and administrators or for failing to obtain permission when required.

B. Clever and Other Third-Party Integrations. School Personnel is solely responsible for monitoring, auditing and otherwise ensuring the quality of any data exposed to Summit through the Clever API or other Third-Party Learning Management Systems.

9.3 Parents/Legal Guardians

Partner School, including through School Personnel, may send an invitation to parents and legal guardians to use the Services and create accounts for the parents and legal guardians who accept the invitation to use the Services ("Parent Account"). Partner School will provide Summit with a parent's or legal guardian's email address and/or phone number, and information linking the parent to an individual Student User. Upon receiving this information, Summit, will automatically send the parent/legal guardian of

In essence....we give schools the ability to invite parents and legal guardians of their students to use the Platform. In doing so,

a Student User an email or SMS text message with details regarding how to activate a Parent Account. Parent Accounts allow parents/legal guardians to track their child's progress in the Services.

they have unique access to the students education. In addition, through the Platform, we permit schools to engage with families by communicating through emails, text messages, and the Platform itself.

Summit,, on behalf of and at the direction of a Partner School, may send parents/legal guardians informational text messages from your Partner School, including, but not limited to, messages: (1) providing information related to their or their child's use of the Services; (2) supplying information that they request; or (3) responding to their inquiries regarding their account or use of Summit. If you as a parent/legal guardian, provide your telephone number to your child's school, you are consenting to Summit (on behalf of and at the direction of your child's school) sending informational text messages closely related to the Partner School's mission.

Summit does not charge you for our text message features. But message and data rates may apply, so depending on your plan with your wireless or other applicable provider, you may be charged by your carrier or other applicable provider.

If you no longer want to receive such text messages, you may text STOP at any time. After doing so, we will send you confirmation of your opt-out via text message. For more information, please see our FAQ.

10. LIABILITY, WARRANTY DISCLAIMERS, AND OTHER LEGAL INFORMATION

10.1 Representations & Warranties

You warrant, represent and agree that you will not provide any User Content or otherwise use the Services in a manner that (i) infringes, violates or misappropriates another's intellectual property rights, rights of publicity or privacy, or other rights; (ii) violate any applicable Law or which would render Summit in violation of any applicable Law; (iii) is harmful, fraudulent, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, or otherwise objectionable; or (iv) jeopardizes the security of your account or the Services in any way, such as allowing someone else access to your account or password. Additionally, you represent, warrant and agree that you (i) possess all rights necessary to provide your User Content and grant Summit the rights in this Agreement (ii) you will comply with the Laws in connection with your use of the Service, and (iii) you are solely responsible for providing notices and obtaining any consents required by applicable Law for Users to use the Services or to provide User Content.

In essence...we want you to collaborate, share content, and enjoy the Program, but, if you do, make sure you have the permission to share any content you provide. In addition, make sure the content is appropriate for the Platform. Be sure you follow all applicable laws.

10.2 Warranty Disclaimer

YOUR USE OF THE SERVICES IS ENTIRELY AT YOUR OWN RISK. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE SERVICES, SOFTWARE, AND ANY ASSOCIATED SUMMIT TECHNOLOGY, USER CONTENT OR CONTENT ARE PROVIDED "AS IS", "WITH ALL FAULTS," AND "AS AVAILABLE."

In essence...We are offering the Services "as is."

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SUMMIT AND OUR AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, AND LICENSORS (COLLECTIVELY, "SUMMIT" FOR PURPOSES OF SECTION 10.2 AND SECTION 10.3 HEREIN) EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING, BUT NOT LIMITED TO: (1) THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, TITLE, QUIET

ENJOYMENT, NO LIENS AND NO ENCUMBRANCES; (2) THE WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS AND NON-INFRINGEMENT, MISAPPROPRIATION OR VIOLATION OF ANY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS OF ANY PERSON; (3) THE WARRANTIES ARISING THROUGH COURSE OF DEALING OR USAGE IN TRADE; AND (4) THE WARRANTIES RELATING TO THE ACCURACY, RELIABILITY, CORRECTNESS, OR COMPLETENESS OF DATA OR CONTENT (INCLUDING USER CONTENT) MADE AVAILABLE ON THE SERVICES OR OTHERWISE BY SUMMIT.

IN PARTICULAR, SUMMIT MAKES NO WARRANTY THAT (I) THE SERVICES WILL MEET YOUR NEEDS OR REQUIREMENTS OR THE NEEDS OR REQUIREMENTS OF ANY OTHER PERSON; (II) YOUR USE OF THE SERVICES WILL BE TIMELY, SECURE, ACCURATE, COMPLETE, UP-TO-DATE, FREE OF VIRUSES, UNINTERRUPTED, OR FREE FROM ERRORS, LOSS, CORRUPTION, ATTACH, VIRUSES, OR HACKING; AND (III) ANY INFORMATION OBTAINED BY PARTNER SCHOOL AS A RESULT OF THE SERVICES WILL BE ACCURATE OR RELIABLE; AND (IV) ANY DEFECTS OR ERRORS IN ANY PART OF THE SERVICES PROVIDED TO PARTNER SCHOOL WILL BE CORRECTED.

IF APPLICABLE LAW DOES NOT ALLOW THE EXCLUSION OF SOME OR ALL OF THE ABOVE IMPLIED OR STATUTORY WARRANTIES TO APPLY TO YOU, THE ABOVE EXCLUSIONS WILL APPLY TO YOU TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS ACCESSED AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO PARTNER SCHOOL'S OR ITS LICENSED USERS' DEVICES, COMPUTERS, OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

10.3 Indemnity

You agree, to the extent permitted by your state's laws, to indemnify, hold harmless, and defend Summit, and our affiliates, licensors, partners, and service providers, and each of their respective officers, directors, contractors, agents, employees, successors and assigns from and against any and all demands, claims, damages, liabilities, judgments, fines, interest, penalties, losses, costs, expenses and harms, including without limitation reasonable attorneys' fees and fees of other professional advisers, arising out of or in connection with (i) your access to, use or misuse of the Services, (ii) your online conduct, (iii) your violation or breach of these Terms or the Agreement, (iv) your failure to comply with any applicable Laws (including any failure to obtain or provide any necessary consent), (v) the infringement by you, or any third-party using your account, of any of the intellectual property or other rights of any person, or (vi) any of your dealings or transactions with other persons resulting from use of the Services, including breach or alleged breach of any interaction, agreement, or policy between you and any other user.

In essence....This section explains your role in the event there is a dispute between someone and Summit. If someone files a claim against Summit that relates to something you've done with our products or services, then the onus is on you and you will be held responsible for any costs that Summit incurs as a result.

You shall not settle any such claim without the prior written consent of Summit. Summit will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it. These obligations will survive any termination of these Terms.

10.4 Limitation of Liability to Users

UNDER NO LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO NEGLIGENCE, SHALL SUMMIT OR OUR SUCCESSORS, AFFILIATES, CONTRACTORS, EMPLOYEES, LICENSORS, SUPPLIERS, PARTNERS OR AGENTS BE LIABLE TO USERS FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, COST OF COVER, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES (EVEN IF SUMMIT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM OR RELATING TO (i) THIS AGREEMENT; (ii) YOUR USE OR THE INABILITY TO USE THE SERVICES, CONTENT, THIRD-PARTY CONTENT, THIRD-PARTY WEBSITES, THIRD-PARTY APPLICATIONS, OR USER SUBMISSIONS; OR (iii) ANY INTERACTION WITH ANY THIRD-PARTY THROUGH OR IN CONNECTION WITH THE SERVICE, INCLUDING OTHER USERS.

In essence....Summit is providing the Services without charge. We cannot compensate you for anything that might indirectly result from the Services not working as intended. If you incur any direct damages as a result of the Services, the amount we might owe you will be capped at $100.

IN NO EVENT WILL SUMMIT OR OUR SUCCESSORS, AFFILIATES, CONTRACTORS, EMPLOYEES, LICENSORS, SUPPLIERS, PARTNERS OR AGENTS BE LIABLE TO USERS IN THE AGGREGATE (FOR ALL POTENTIAL CLAIMS BY YOU) FOR ANY DAMAGES INCURRED IN EXCESS OF ONE HUNDRED DOLLARS ($100).

BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SUMMIT'S LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW.

FOR ANY USER LOCATED WITHIN CALIFORNIA (AND ELSEWHERE AS PERMITTED BY LAW), THE FOLLOWING SHALL APPLY: YOU ALSO EXPRESSLY WAIVE ANY AND ALL RIGHTS AND BENEFITS CONFERRED UPON YOU, NOW OR IN THE FUTURE, UNDER THE TERMS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR." BY AGREEING TO THESE TERMS, YOU ARE STATING YOU UNDERSTAND AND ACKNOWLEDGE THE SIGNIFICANCE AND EFFECTS OF SUCH WAIVER AND MAKE SUCH WAIVER VOLUNTARILY.

LIMITATION OF LIABILITY WITH RESPECT TO PARTNER SCHOOLS IS SET FORTH IN THE PROGRAM AGREEMENT.

11. GOVERNING LAW AND DISPUTE RESOLUTION

11.1 Governing Law

Except as otherwise required by applicable Law, for Licensed Users the Agreement and any dispute arising from or relating to the Agreement are governed by and must be construed in accordance with the laws of the State of California, United States, without regard to conflict of law principles. You further agree to accept service of process by mail. By using the Services, you waive any claims that may arise under the laws of other states, countries, territories or jurisdictions.

In essence....Summit is based in California so our Program, our Services, and our Agreement are governed under California law.

Except with respect to the arbitration provisions contained herein in Section 11.2, the parties consent to exclusive personal jurisdiction and venue in the courts located in San Mateo County, California.

11.2 Arbitration and Class Action Waiver

In essence....These sections establish the process if there is a dispute between you and Summit.

With respect to any and all disputes arising out of or in connection with the Services, Summit and you agree to negotiate in good faith and undertake reasonable efforts to cooperate with one another in order to achieve a mutually satisfactory resolution. To the extent permitted by Law, if you and Summit do not resolve any dispute by informal negotiation, any other effort to resolve the dispute will be conducted exclusively by binding arbitration as described in this section. **You and Summit are giving up the right to litigate (or participate in as a party or class member) all disputes in court before a judge or jury.**

Instead, all disputes will be resolved before a neutral arbitrator, whose decision will be final except for a limited right of appeal under the Federal Arbitration Act. Any court with jurisdiction over the parties may enforce the arbitrator's award.

To the extent permitted by Law, any claim or dispute under or relating to the Agreement must be filed within one year in an arbitration proceeding. The one-year period begins when the claim or notice of dispute first could be filed. If a claim or dispute isn't filed within one year, it's permanently barred.

If the arbitration provision in this Section is found to be unenforceable or invalid, the parties agree that any suit or proceeding arising out of or relating to these Terms will be brought in the federal or state courts, as applicable, in San Mateo County, California, and each party irrevocably submits to the jurisdiction and venue of such courts.

11.2.1 Federal Arbitration Act

You and Summit ("the parties" or "both parties") agree that the Agreement affects interstate commerce and that the Federal Arbitration Act governs the interpretation and enforcement of these arbitration provisions.

11.2.2 Initial Dispute Resolution

In the event of a dispute, claim, or controversy arising out of or relating to the Agreement or the Services, any person's access to and/or use of the Services, and/or the provision of content, services, and/or technology on or through the Services (collectively, "**Claims**"), both parties must first give the other notice of the Claim. This notice must include a brief written statement with the name, address, and contact information of the party giving it, as well as the facts giving rise to the Claim and the relief requested. You must send any such notice to Summit by email to info@summitlearning.org AND by

U.S. Mail to Summit Public Schools, 780 Broadway Street, Redwood City, California 94063. If we have your contact information, we will send any such notice to you by U.S. Mail and your email address. The parties must first attempt to resolve any Claims through informal negotiation within thirty (30) days from the date that any notice of a Claim is sent. The parties shall use reasonable, good faith, efforts to settle any Claim through consultation and good faith negotiations. After thirty (30) days, you or Summit may resort to the other alternatives described in this Section 11.2. Notwithstanding the foregoing, the notice and thirty (30) day negotiation period required by this paragraph shall not apply to Claims concerning patents, copyrights, moral rights, trademarks, and trade secrets and claims of piracy or unauthorized use of the Services.

11.2.3 Binding Arbitration

To the extent permitted by law, Summit and you agree that all disputes arising under the Agreement that cannot be settled through informal negotiation will be settled exclusively through confidential binding arbitration in San Mateo County, California, U.S.A. The arbitrator's award shall be binding and may be entered as a judgment in a court of competent jurisdiction. You agree that Summit may seek any interim or preliminary relief from a court of competent jurisdiction in San Mateo County, California, U.S.A, necessary to protect its rights or property pending the completion of arbitration. **If your entity is a U.S. public and accredited educational institution and your consent to binding arbitration is expressly prohibited by the laws of the state within the U.S. in which your educational institution is domiciled, then this subsection 11.2.3 is hereby waived.**

The arbitration shall be conducted by a single arbitrator, governed by JAMS pursuant to its Comprehensive Arbitration Rules & Procedures (collectively, "JAMS Rules"), as modified by these Terms, and administered by JAMS. The JAMS Rules and fee information are available at www.jamsadr.org or by calling JAMS at 1-800-352-5267.

The decision of the arbitrator will be in writing and binding and conclusive on you and Summit, and judgment to enforce the decision may be entered by any court of competent jurisdiction. You and Summit agree that dispositive motions, including without limitation motions to dismiss and motions for summary judgment, will be allowed in the arbitration. The arbitrator must follow these Terms and can award the same damages and relief as a court, including injunctive or other equitable relief and attorney's fees. You and Summit understand that, absent this mandatory arbitration provision, you and Summit would have the right to sue in court and have a jury trial.

If any clause within this subsection 11.2.3 is found to be illegal or unenforceable, that specific clause will be severed from this Section, and the remainder of its provisions will be given full force and effect.

11.2.4 Class Action Waiver

To the extent permitted by Law, the parties further agree that any arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. You and Summit agree that each may bring claims against the other only in your or its individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provision set forth above shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate Claims. No arbitration or proceeding will be

combined with another without the prior written consent of all parties to all affected arbitrations or proceedings.

11.2.5 Confidentiality

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

11.3 Changes to this Section

Summit will provide 60-days' notice of any changes to Section 11. Changes will become effective on the 60th day, and will apply prospectively only to any Claims arising after the 60th day. If a court or arbitrator decides that this subsection on "Changes to this Section" is not enforceable or valid, then this subsection 11.3 shall be severed from Section 11, and the court or arbitrator shall apply the first Arbitration and Class Action Waiver (or similarly named) section in existence after you first installed, accessed, or used any of the Services.

12. MODIFICATION

12.1 Modifications of the Agreement. Summit may modify the Agreement to, for example, reflect changes to the law or changes to the Services. You should look at these Terms regularly. We last modified the Terms on the date stated above. We'll post notice of modifications to the Agreement on this page or elsewhere on the Services and/or as required by Laws. Your continued use of the Services, following notice of the changes to the Agreement, constitutes your acceptance of our amended terms, policies or guidelines. If you do not agree to the modified Agreement, you should discontinue your use of the Services.

In essence....These terms might change in the future. If they do, we'll tell you on this page or somewhere within the Platform. If you keep using the Platform after the terms change, then you have accepted those changes.

12.2 Modifications relating to Personally Identifiable Information. Summit will not materially change how personally identifiable information contained in Student Data is used or shared under the Agreement without advance, prominent notice to affected Users and the Principal Contact Person of the related Partner School. If a change with respect to how personally identifiable information contained in Education Records is used or shared under the Agreement has a material adverse impact on the Partner School or the Licensed Users thereof and an Authorized Representative of such Partner School does not agree to the change, the Partner School must notify Summit within thirty (30) days of receiving the notice of change as described under the caption "Contact Information." If an Authorized Representative of a Partner School provides such a notice to Summit, then the Partner School and related Users shall be governed by the Agreement in effect immediately prior to the change until the end of the then-current Term. If the Partner School renews or extends its use of the Services, the Services will be renewed or extended will be renewed under Summit's then-current Agreement.

If we significantly change how your personal information is used, we'll give you advance notice and tell your school. If you don't like the new changes, we'll give you an opportunity to contact us and an opportunity to opt out of the change.

13. MISCELLANEOUS

If any provision of these Terms is invalid or unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable Laws and the remaining provisions will continue in full force and effect. You agree that, except as otherwise expressly provided in these Terms, there shall be no third party beneficiaries to these Terms. Our failure to enforce any provisions of the Terms or respond to a breach by you or anyone else shall not in any way waive our right to enforce subsequently any terms or conditions of the Terms or to act with respect to similar breaches. You must not assign these Terms or any rights or obligations herein without the prior written consent of Summit and any attempted assignment in contravention of this provision is null and void and of no force or effect. Summit has the right to assign these Terms, and any of its rights or obligations herein. These Terms are binding upon each party and its respective successors, heirs, trustees, administrators, executors and permitted assigns. The parties are independent contractors and not employees, partners, agents, or joint venturers of the other and have no employment relationship whatsoever. No party will make any commitment, by contract or otherwise, binding upon the other party or represent that it has any authority to do so. This is a non-exclusive agreement. These Terms are the entire agreement of the parties and supersede all previous or contemporaneous agreements between the parties relating to its subject matter. In connection with your use of the Services, you may be asked to consent to policies or terms and conditions in addition to these Terms. Please read these separate policies and terms carefully before making any use of such portions of the Services. Any separate terms will not vary or replace these Terms regarding any use of the Services, unless otherwise expressly stated.

14. CONTACT INFORMATION

Please direct any questions, complaints or claims related to the Services or your use of the Services to info@summitlearning.org.

In essence....If you need to reach out to us, please reach out via email at info@summitlearning.org and we will do our best to respond in a timely manner.

EXHIBIT B
DATA PRIVACY ADDENDUM

DATA PRIVACY ADDENDUM

Modeled after Version 2.0 of the Student Data Privacy Consortium's Model Contract

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and

SUMMIT PUBLIC SCHOOLS

This **DATA PRIVACY ADDENDUM** (this "Data Privacy Addendum") is entered into by and between **PARTNER SCHOOL** (as defined in the related Program Agreement) and **SUMMIT PUBLIC SCHOOLS** ("Summit"), a California nonprofit public benefit corporation, having an office at 780 Broadway Street, Redwood City, California, on the Effective Date (each of Summit and Partner School, a "Party" and together the "Parties"). The Parties agree to the terms as stated herein.

1. PURPOSE AND SCOPE

1.1 Purpose of Data Privacy Addendum. The purpose of this Data Privacy Addendum is to describe the duties and responsibilities to protect Student Data transmitted to Summit from the Partner School and its Users pursuant to the Agreement, including compliance with all applicable federal and state privacy statutes. This Data Privacy Addendum, together with the Summit Learning Platform Terms of Service ("Terms of Service") and the Summit Learning Program Agreement ("Program Agreement") is the "Agreement."

1.2 Nature of Services Provided. Pursuant to and as fully described in the Program Agreement, Summit has agreed to provide the Summit Learning Program (the "Program") and the Summit Learning Platform ("Platform") and any other products and services that the Program may provide now or in the future (collectively, the "Services").

1.3 Student Data to Be Provided. In order to provide the Services, Partner School and its Users shall provide the categories of Student Data described in the Schedule of Data, attached hereto as Exhibit A.

1.4 Data Privacy Addendum Definitions. Capitalized terms used herein and not otherwise defined in the Program Agreement or Terms of Service shall have the meanings set forth in Exhibit B hereto.

2. DATA OWNERSHIP AND AUTHORIZED ACCESS

2.1 Student Data Property of Partner School. All Student Data or any other Pupil Records transmitted to Summit pursuant to the Program Agreement is and will continue to be the property of and under the control of the Partner School, or the party who provided such Student Data or Pupil Records (such as the student or parent). The Parties hereto 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 Agreement shall remain the exclusive property of the Partner School or the party who provided such Student Data or Pupil Records (such as the student or parent). For the purposes of FERPA, to the extent Personally Identifiable Information from Education Records are transmitted to Summit from Partner School, Summit shall be considered a School Official, under the control and direction of the Partner Schools as it pertains to the use of Education Records notwithstanding the above.

2.2 Parent Access. As set forth in applicable law, Partner School shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Personally Identifiable Information contained in the related student's Pupil Records and correct erroneous information, consistent with the functionality of Services. Summit shall respond in a reasonably timely manner to the Partner School's request for Personally Identifiable Information contained in a student's Pupil Records held by Summit to view or correct as

necessary. In the event that a parent/legal guardian of a student or other individual contacts Summit to review any of the Pupil Records or Student Data accessed pursuant to the Services, Summit shall refer the parent or individual to the Partner School. In such event, Partner School shall follow the necessary and proper procedures regarding the requested information.

2.3 **Third Party Request**. Should a Third Party, excluding a Service Provider, including law enforcement and government entities, contact Summit with a request for Student Data held by Summit pursuant to the Services, Summit shall redirect the Third Party to request the Student Data directly from the Partner School. Summit shall notify the Partner School in advance of a compelled disclosure to a Third Party unless legally prohibited.

2.4 **No Unauthorized Use**. Summit shall not use Personally Identifiable Information from Student Data or in a Pupil Record for any purpose other than as explicitly specified in the Agreement.

2.5 **Service Providers**. Summit shall enter into written agreements with all Service Providers performing functions pursuant to the Agreement, whereby the Service Providers agree to protect Student Data in a manner consistent with the terms of this Data Privacy Addendum.

3. DUTIES OF PARTNER SCHOOL

3.1 **Provide Data In Compliance With FERPA**. Partner School shall provide Student Data for the purposes of the Agreement in compliance with any applicable state or federal laws and regulations (including FERPA) pertaining to data privacy and security applicable to Partner School. If Partner School provides Education Records to Summit, Partner School represents, warrants and covenants to Summit, as applicable, that Partner School has:

(i) complied with all applicable provisions of FERPA relating to disclosures to school officials with a legitimate educational interest, including, without limitation, informing parents in their annual notification of FERPA rights that the Partner School defines "school official" to include service providers and defines "legitimate educational interest" to include services such as the type provided by Summit; or

(ii) obtained all necessary parental or eligible student written consent to share the Student Data with Summit, in each case, solely to enable Summit's operation of the Service.

Partner School represents, warrants, and covenants to Summit that it shall not provide information to Summit from any student or parent/legal guardian that has opted out of the disclosure of Directory Information. Summit depends on Partner School to ensure that the Partner School is complying with the FERPA provisions regarding the disclosure of any student information that will be shared with Summit.

3.2 **Reasonable Precautions**. Partner School shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the Services and hosted data in accordance with the Agreement and applicable law.

3.3 **Unauthorized Access Notification**. Partner School shall notify Summit immediately of any known or suspected unauthorized use or access of the Platform or Student Data. Partner

School will assist Summit in any efforts by Summit to investigate and respond to any unauthorized use or access.

3.4 **Partner School Representative**. The Principal Contact Person designated in the Program Agreement shall serve as the representative of the Partner School for the coordination and fulfillment of the duties of this Data Privacy Addendum.

4. DUTIES OF SUMMIT

4.1 **Privacy Compliance**. Summit shall comply with all applicable state laws of the jurisdiction in which Partner School is located and federal laws and regulations pertaining to data privacy and security, applicable to Summit in providing the Services to Partner School.

4.2 **Authorized Use**. The Student Data shared pursuant to the Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services and for the uses set forth in the Agreement and/or as otherwise legally permissible. The foregoing limitation does not apply to any De-Identified Data.

4.3 **Employee Obligation**. Summit shall require all employees and agents who have access to Student Data to comply with all applicable laws with respect to the Student Data shared under the Service Agreement. Summit agrees to require and maintain an appropriate confidentiality agreement from each employee with access to Student Data pursuant to the Service Agreement.

4.4 **No Disclosure**. Summit shall not disclose any Student Data obtained under the Agreement in a manner that directly identifies an individual student to any other entity except as authorized by the Agreement. Summit will not Sell Student Data. Additionally, Summit will not trade or transfer Student Data to any third parties, except with the prior written consent of the Partner School. The prohibition on disclosing, trading, or transferring Student Data does not apply to the access to or disclosure of Student Data to (a) Partner School, (b) to authorized Licensed Users, including parents or legal guardians, (c) as permitted by law or (d) to Service Providers, in connection with operating or improving the Service. The list of Summit's current Service Providers can be accessed through the Privacy Policy (which may be updated from time to time).

4.5 **De-Identified Data.** De-Identified Data may be used for any lawful purpose including, but not limited to, operating and improving the Service. Summit's use of such De-Identified Data shall survive termination of this Data Privacy Addendum or any request by Partner School to return or destroy Student Data. Summit agrees not to attempt or have any third party attempt to re-identify De-Identified Data.

4.6 **Disposition of Student Data**. Summit shall, at Partner School's request, dispose of or delete all Personally Identifiable Information contained in Student Data within a reasonable time period following a written request. If a written request is received from a Partner School, Summit shall transfer said Personally Identifiable Information contained in Student Data to Partner School or Partner School's designee within sixty (60) days of the date of such written request by Partner School, or as required by law, and according to a schedule and procedure as Summit and the Partner School may reasonably agree. If no written request is received, Summit shall dispose of or delete all Personally Identifiable Information contained in Student Data at the earliest of (a) when it is no longer needed for

the purpose for which it was obtained or (b) as required by applicable law. Disposition shall include (1) the shredding of any hard copies of any Personally Identifiable Information contained in Student Data; (2) erasing any Personally Identifiable Information contained in Student Data; or (3) otherwise modifying the Personally Identifiable Information contained in Student Data to make it unreadable or indecipherable or De-Identified. Summit shall provide written notification to the Partner School when the Personally Identifiable Information contained in the Student Data has been disposed. The duty to dispose of Student Data shall not extend to data that has been De-Identified.

4.7 **Advertising Prohibition**. Summit shall not use Personally Identifiable Information contained in Student Data to (a) serve Behaviorally Targeted Advertising to students or families/guardians; or (b) develop a profile of a student for any commercial purpose other than providing the Services to Partner School or as set forth in the Service Agreement. Summit shall not use or disclose Personally Identifiable Information contained in Student Data for Third-Party Advertising.

5. DATA PROVISIONS

5.1 **Data Security**. Summit agrees to employ administrative, physical, and technical safeguards designed to protect Student Data from unauthorized access, disclosure, and use or acquisition by an unauthorized person, including when transmitting and storing such information. The general security duties of Summit are set forth below. Additional detail regarding Summit's security programs and measures are listed in Exhibit C hereto. These measures shall include, but are not limited to:

a. Passwords and Employee Access. Summit shall use commercially reasonable precautions 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. Summit shall only provide access to Student Data to employees, contractors or Service Providers that are performing the Services. Summit shall conduct criminal background checks of employees prior to providing access to Student Data and prohibit access to Student Data by any person with criminal or other relevant unsatisfactory information that presents an unreasonable risk to Partner School or its Users.

b. Destruction of Student Data. Summit shall destroy or delete all Personally Identifiable Information contained in Student Data obtained under the Agreement as set forth in Section 4.6 hereof.

c. Security Protocols. Both Parties agree to maintain security protocols that meet industry best practices in the transfer or transmission of any Student Data as described in Exhibit C, including ensuring that Student Data may only be viewed or accessed by individuals or entities legally allowed to do so. The foregoing does not limit the ability of Summit to allow any necessary Service Providers to view or access data as set forth in Section 4.4 hereof. Summit shall maintain all Student Data obtained or generated pursuant to the Agreement in a secure computing environment and shall not copy, reproduce, or transmit data obtained pursuant to the Agreement, except as necessary to fulfill the purpose of data requests by Partner School or as otherwise set forth in the Agreement.

d. Employee Training. Summit shall provide periodic security training to those of its employees who operate or have access to the Platform.

e. Security Technology. When the Service is accessed using a supported web browser, Summit will ensure that Secure Socket Layer ("SSL"), or equivalent technology that protects information, using both server authentication and data encryption is used to help ensure that Student Data is transmitted in a safe and secure manner. Summit shall host data pursuant to the Agreement in an environment using a firewall that is periodically updated according to industry standards.

f. Security Coordinator. Summit shall provide the name and contact information of Summit's security coordinator for the Student Data received pursuant to the Agreement that Partner School may contact if there are any security questions or concerns ("Security Coordinator"). Summit's Security Coordinator shall be as set forth in Exhibit C.

g. Service Provider Bound. Summit shall enter into written agreements whereby Service Providers agree to secure and protect Student Data in a manner consistent with the terms of this Section 5. Summit shall periodically conduct or review compliance monitoring and assessments of Service Providers to determine their compliance with this Section 5.

5.2 Data Breach.

a. In the event that Summit becomes aware of any actual or reasonably suspected unauthorized disclosure of or access to Student Data (a "Security Incident"), Summit shall provide notice to the Partner School as required by the applicable state law (each, a "Security Incident Notification").

b. Unless otherwise required by the applicable law, the Security Incident 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.

c. The Security Incident Notification described above in Section 5.2(a) shall include such information required by the applicable state law and the following information:

(i) The name and contact information of the reporting Partner School subject to this section.

(ii) A list of the types of Personally Identifiable Information that were or are reasonably believed to have been the subject of the Security Incident.

(iii) If the information is known at the time the Security Incident Notification is provided, then either (1) the date of the Security Incident, (2) the estimated date of the Security Incident, or (3) the date range within which the Security Incident occurred. The Security Incident Notification shall also include the date of the notice.

(iv) Whether, to the knowledge of Summit at the time notice is provided, the notification was delayed as a result of a law enforcement investigation or request.

(v) A general description of the Security Incident, if that information is possible to determine at the time the notice is provided.

d. At Summit's discretion, the Security Incident Notification may also include any of the following:

(i) Information about what Summit has done to protect individuals whose Personally Identifiable Information has been breached by the Security Incident.

(ii) Advice on steps that the person whose Personally Identifiable Information has been breached may take to protect himself or herself.

e. To the extent required by the applicable state law, Summit shall notify the affected parent, legal guardian or eligible pupil of the Security Incident, which shall include the information listed in subsections (c) and (d), above.

6. MISCELLANEOUS

6.1 **Term.** Except as otherwise stated herein, Summit shall be bound by this Data Privacy Addendum for the duration of the Program Agreement or as required by law.

6.3 **Termination.** In the event that either Party seeks to terminate this Data Privacy Addendum, they may do so by terminating the Program Agreement as set forth therein.

6.4 **Effect of Termination Survival.** If the Agreement is terminated, Summit shall dispose of all of Partner School's Personally Identifiable Information contained in Student Data pursuant to Section 4.6.

6.5 **Priority of Agreements.** This Data Privacy Addendum shall govern the treatment of Student Data. With respect to the treatment of Student Data, in the event there is conflict between the terms of this Data Privacy Addendum and the Program Agreement, the Terms of Service, or any other agreement between the Partner School and Summit, the terms of this Data Privacy Addendum shall apply and take precedence. Except as described in this paragraph, all other provisions of the Program Agreement shall remain in effect.

6.6 **Notice.** All notices or other communication required or permitted to be given hereunder must be sent to Partner School or Summit, as applicable, as provided in the Program Agreement.

EXHIBIT A

SCHEDULE OF DATA

Category of Data	Elements	"X" Indicates Category is Used by Summit Learning
Application Technology Meta Data	IP Addresses of users, Use of cookies etc.	X
	Other application technology meta data-Please specify:	
Application Use Statistics	Meta data on user interaction with application	X
Assessment	Standardized test data (NWEA MAP, SBAC, AP, IB, etc.)	X
	Observation data	X
	Other assessment data-Please specify:	
Attendance	Student school (daily) attendance data	X
	Student class attendance data	X
	Other attendance: - Suspensions/expulsions	X
Communications	Online communications that are captured (emails, blog entries)	
Conduct	Conduct or behavioral data	
Demographics	Date of Birth	X
	Place of Birth	X
	Gender	X
	Ethnicity or race	X
	Language information (native, preferred or primary language spoken by student)	X
	Other demographic information-Please specify: - Socioeconomic status	X
Enrollment	Student school enrollment	X
	Student grade level	X
	Homeroom	X
	Guidance counselor	X
	Specific curriculum programs	X
	Year of graduation	X
	Other enrollment information-Please specify: - Clever ID# - SIS ID#	X
Parent/Guardian Contact Information	Address	
	Email	X
	Phone	X
Parent/Guardian ID	Parent ID number (created to link parents to students)	X
Parent/Guardian Name	First and/or Last	X
Schedule	Student scheduled courses	X
	Teacher names	X
Special Indicator	English language learner information	X
	Low income status	X

Category of Data	Elements	"X" Indicates Category is Used by Summit Learning
	Medical alerts	
	Student disability information	X
	Specialized education services (IEP or 504)	X
	Living situations (homeless/foster care)	
	Other indicator information-Please specify:	
Student Contact Information	Address	
	Email	X
	Phone	
Student Identifiers	Local (School district) ID number	X
	State ID number	X
	Vendor/App assigned student ID number	X
	Student app username	
	Student app passwords	
Student Name	First and/or Last	X
Student In App Performance	Program/application performance (reading program-student reads below grade level)	X
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	X
Student Survey Responses	Anonymous student responses to surveys or questionnaires	X
Student work	Student generated content; writing, pictures etc.	X
	Other student work data -Please specify:	
Student Outcome Information	Student outcome information (grade level promotion and matriculation, AP and IB test information, college admission test scores, college eligibility and acceptance, and employment)	X
Transcript	Student course grades	X
	Student course data	X
	Student course grades/performance scores	X
	Other transcript data -Please specify:	
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: - teacher feedback on coursework - teacher curricula and notes and feedback to or about students - Teacher and parent answers to surveys about the Services or curricula; and feedback, suggestions, questions, and ideas submitted to Summit from parents/legal guardians, teachers or school administrators or officials - mentor observations	X

EXHIBIT B

DEFINITIONS

"Agreement" means, collectively, the Terms of Service and the Program Agreement.

"Behaviorally-Targeted Advertising" means presenting an advertisement to a User where the selection of the advertisement is based on Student Data or Pupil Generated Content or inferred over time from the usage of Summit's website, online service or mobile application by such student or the retention of such student's online activities or requests over time and across non-affiliate website for the purpose of targeting subsequent advertising.

"De-Identified Data" is information that has all direct and indirect personal identifiers removed such that the data cannot reasonably be used to identify or contact a student. This includes, but is not limited to, persistent unique identifiers, name, ID numbers, date of birth, and school ID.

"Directory Information" shall have the meaning therefor under FERPA cited as 20 U.S.C. 1232g(a)(5)(A).

"Education Records" shall have the meaning therefor under FERPA cited as 20 U.S.C. 1232g(a)(4).

"Indirect Identifiers" means any information that, either alone or in aggregate, would allow a reasonable person to be able to identify a student to a reasonable certainty. When anonymous or non-personal information is directly or indirectly linked with personal information, this anonymous or non-personal information is also treated as personal information. Persistent identifier that are not anonymized, de-identified or aggregated are personal information.

"Licensed User" means a teacher, employee, official, agent of a Partner School or the parent or legal guardian of a Student User.

"Personally Identifiable Information" or ***"PII"*** means data that can be used to identify or contact a particular individual, such as the individual's name, email address or billing information, or other data which can be reasonably linked to that data or to that individual's specific computer or device. 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

"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 Partner School 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 employee of the Partner School.

"School Official" means, for the purposes of this Data Privacy Addendum and pursuant to CFR 99.31 (B), 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 Education Records.

"***Self***" consistent with the Student Online Privacy Protection Act (SOPIPA) and the Student Privacy Pledge, does not include or apply to the purchase, merger or other type of acquisition of a company by another entity, provided that the company or successor entity continues to treat the personal information in a manner consistent with the Education Privacy Principles with respect to the previously acquired personal information.

"Service Provider", means, for the purposes of the Data Privacy Addendum, a party other than Partner School or Summit or Users, who Summit uses for data collection, analytics, storage, or other service to operate and/or improve the Platform, and who has access to PII.

"Student Data" means any data, whether gathered by Summit or provided by Partner School or its users, students, or students' parents/guardians, that is directly related to a Partner School 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 Data Privacy Addendum. Student Data as specified in Exhibit A is confirmed to be collected or processed by Summit 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 the Services.

"Student User" means a student enrolled at the Partner School with an account on the Platform.

"***Summit Learning Website***" means the website for the Program presently located at www.summitlearning.org, which URL is subject to change from time to time.

"Terms of Service" means the Summit Learning Platform Terms of Service between each Licensed User of the Platform and Summit and the authorized representative of each Partner School and Summit, located on the Summit Learning Website.

"Third Party" means, for purposes of this Data Privacy Addendum, any person other than Summit, Partner School, a User, or a Service Provider.

"Third-Party Advertising" means direct advertising of third-parties and their products or services on our Service (e.g., such as when an advertiser would bid to place an advertisement directly on a platform). Summit does not allow third parties to advertise directly on its Service in user logged in areas of the Service, nor does Summit sell advertising space in logged in areas on the Platform. Summit also does not use third-party ad servers (such as Google AdWords or AdSense) in user logged in areas of the Platform.

"Users" means, collectively, Student Users and Licensed Users.

EXHIBIT C

DATA SECURITY REQUIREMENTS

Definitions

Event is any observable occurrence in a system or network

Site Event (SEV) is an event impacting platform functionality and/or availability requiring remediation and/or investigation.

Sensitive Data is defined to include:

- Personally Identifiable Information contained in Student Data as previously defined in Exhibit B
- Personally Identifiable Information (as defined in Exhibit B) of teachers, parents, administrative staff or site admin of the Service
- Any login credentials, passwords, user authentication tokens or security devices used for Platform or infrastructure access

Security Coordinator - Bryant Wong

Security Incident - An incident where Summit becomes aware of any actual or reasonably suspected unauthorized disclosure of or access to Sensitive Data.

On-Call means the Summit personnel tasked with monitoring system alerts and responding to incidents. Summit will use reasonable efforts to have an engineer on-call at any given moment.

Platform is as defined in this Data Privacy Addendum.

System Alert means an automated notification triggered by specified Platform system conditions.

Security

Security Controls: Summit shall be responsible for the implementation and maintenance of controls that align with the Center for Internet Security Critical Security Controls as well as other industry best practices for education technology security. This includes appropriate administrative, physical, and technical safeguards to protect Sensitive Data from unauthorized access, disclosure, and use. Specifically, Summit shall:

- Implement effective identification and authentication methods using multi-factor authentication (MFA) with strong password complexity and a mobile security application based on two-factor authentication (2FA).
- Employ strong encryption technologies to securely transmit and store all sensitive data. These procedures will include; data-in-transit secured with encrypted transportation protocols (HTTPS, SSL/TLS). When at rest sensitive data will be encrypted using one of the strongest block ciphers available, 256-bit Advanced Encryption Standard (AES-256) to protect sensitive data.
- Create a highly effective data backup and recovery capability that ensures a timely and accurate restoration of all Sensitive Data. The capability will minimize the amount of Sensitive Data loss in the event of some form of catastrophic failure. For further protection, those backups will be encrypted and are stored in a different region.
- Adopt and maintain a secure software development lifecycle (Secure SDLC) with industry recognized security practices to establish secure application(s), network, and infrastructure

architectures. The Secure SDLC will also incorporate security assurance activities such as penetration testing, code reviews and architecture analysis as essential functions of the development effort.

Security Incident and Event Monitoring:

- Maintain platform availability through event monitoring and response procedures for all Site Events, automated Site Event notifications, handling and reporting by an On-Call personnel.
- Guard against Security Incidents and maintain incident response policies, plans and procedures focused on timely and effective incident response. These procedures shall be made to Partner School upon request.
- Employ industry leading intrusion detection measures focused on monitoring and identifying deviations in normal network, user, and platform behaviors. Employ trained incident handling professionals with experience in Security Incident and Event Monitoring (SIEM), Configuration Auditing and Threat Intelligence.

Security Governance:

- Develop and conduct security risk assessments focused on the identification and remediation of risks collected through a well defined assessment process.
- Employ oversight and accountability procedures for risk management and remediation