

DATA PRIVACY ADDENDUM TO EDGEAR SOFTWARE SERVICES/LICENSE AGREEMENT

This DATA PRIVACY ADDENDUM TO EDGEAR SOFTWARE SERVICES/LICENSE AGREEMENT (“Addendum”) amends that certain EDgear Software Services/License Agreement by and between EDgear of America Inc (“EDgear”) and Calcasieu Parish School District (“Licensee”), and any amendments or addenda thereto (the “Agreement”), to address requirements under federal and/or state law governing the protection of Personally Identifiable Information of students. All capitalized terms used but not otherwise defined in this Addendum shall have the meanings ascribed to them in the Agreement.

1. DEFINITIONS

- 1.1. “**Data Breach**” shall mean any instance in which there is, or there is a reasonable basis to conclude that there has been, unauthorized access to, or the unauthorized release of, the PII of a student of Licensee caused by EDgear Personnel.
- 1.2. “**EDgear Personnel**” shall mean any employee, officer, director, agent, affiliate, contractor, or subcontractor of EDgear.
- 1.3. “**Effective Date**” shall mean July 1, 2017.
- 1.4. “**Licensee Data**” shall mean all Licensee data that is in EDgear’s custody.
- 1.5. “**Mobile Device**” shall mean laptop computers, tablets, smart phones, and any other mobile computing devices.
- 1.6. “**Personally Identifiable Information**” or “**PII**” shall mean information about an individual that can be used on its own or with other information to identify, contact, or locate a single individual, including but not limited to the following:
 - (a) Any information that can be used to distinguish or trace an individual’s identity such as full name, social security number, date and place of birth, mother’s maiden name, or biometric records.
 - (b) Any other information that is linked or linkable to an individual such as medical, educational, financial, and employment information.
 - (c) Two or more pieces of information that separately or when linked together can be used to reasonably ascertain the identity of the person.
- 1.7. “**Portable Storage Medium**” shall mean portable memory devices, including jump or thumb drives, portable hard drives, and tape backup media.
- 1.8. “**Systems**” shall mean any EDgear computer system, network, or software that accesses, maintains, stores or transmits Licensee’s student PII, including computer systems or networks operated by EDgear contractors or subcontractors.

2. ACCESS CONTROL AND AUTHORIZATION

- 2.1. EDgear agrees to protect and maintain the security of Licensee's student PII with commercially reasonable security measures commensurate with the sensitivity of such student PII.
- 2.2. EDgear has implemented policies and procedures for its Systems that maintain student PII to allow access only to those individuals or software programs that have been authorized to access such student PII. EDgear Personnel and Licensee's auditors are authorized to access student PII on a need-to-know basis only based upon specific job functions. Authentication occurs through the use of unique user identifications. All EDgear Personnel and Licensee's auditors with access to EDgear's Systems are assigned a unique user identification to log in to such Systems. EDgear Personnel and Licensee's auditors maintain their own passwords and any software that accesses student PII requires an EDgear-assigned user identification and user-owned password. EDgear Personnel and Licensee's auditors are prohibited from sharing identifications and passwords. EDgear's network administrator(s) monitor and maintain such identifications and passwords.
- 2.3. EDgear shall not authorize access to Licensee's student PII to any of EDgear's agents, affiliates, contractors, and subcontractors, or to any auditor, unless such agent, affiliate, contractor, subcontractor, or auditor has entered into a written confidentiality agreement with EDgear and/or Licensee, as applicable, agreeing to protect the confidentiality and security of such student PII.
- 2.4. EDgear shall not permit unauthorized access to Licensee's student PII to any individual or entity at any time.

3. PRIVACY COMPLIANCE

- 3.1. EDgear agrees to protect and maintain the privacy of Licensee Data with commercially reasonable measures commensurate with the sensitivity of such Licensee Data.
- 3.2. EDgear has implemented policies and procedures to protect against reasonably foreseeable access to, or disclosure of, Licensee's student PII, and to prevent other reasonably foreseeable events that would result in substantial harm to Licensee or any individual identified in such student PII.
- 3.3. EDgear shall not permit Licensee's student PII to be maintained or stored on any Mobile Device or Portable Storage Device under EDgear's control unless such device is being used in connection with EDgear's testing or backup and recovery procedures. EDgear shall not be liable for any of Licensee's student PII:
 - (a) that is maintained or stored on Mobile Devices or Portable Storage Devices that are not under EDgear's control, or

- (b) when EDgear does not control physical access to the student PII or the facilities, computer systems, networks, or software that accesses, maintains, stores or transmits the student PII.

3.4. EDgear shall not, without the prior written consent of Licensee:

- (a) maintain or store Licensee's student PII outside of the United States,
- (b) transmit Licensee's student PII to any contractors or subcontractors located outside of the United States, or
- (c) distribute, repurpose or share Licensee Data with any EDgear affiliate or any EDgear Systems not used exclusively for providing services to Licensee.

3.5. Except as specifically set forth in this Addendum, the Agreement, or as required by federal or state law, EDgear shall not allow access to, release, or allow the release of Licensee's student PII to any individual or entity except as follows:

- (a) To the contractors or subcontractors of EDgear that provide services related to the support, maintenance, and security of EDgear's software products.
- (b) To any individual, entity, school district, parish, county, or other organization expressly authorized by Licensee, which includes, but is not limited to, the use of EDgear Software Services and/or Licensed EDgear Products.

4. **PRIVACY AND SECURITY AUDITS**

Pursuant to applicable federal and state law, EDgear agrees that it shall permit auditors to perform privacy and security audits of EDgear's Systems and records to ensure compliance the privacy and security requirements of such laws. The Licensee auditors who perform such privacy and security audits shall be selected by, and the audit shall be performed under the direction of, the superintendent of Licensee. EDgear agrees that it shall make its Systems and records available to such Licensee auditors during normal business hours upon 7 days prior notice, and to cooperate with the audit and provide reasonable assistance with access to information requested by the auditors.

5. **BREACH PLANNING, NOTIFICATION, AND REMEDIATION**

5.1. EDgear has implemented policies and procedures addressing a potential Data Breach and a Data Breach response plan.

5.2. EDgear shall comply with all federal and state laws that require notification to individuals, entities, state agencies, or federal agencies in the event of a Data Breach.

5.3. In the event of a Data Breach, EDgear shall:

- (a) notify Licensee in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement or any measures

necessary to determine the scope of the Data Breach, prevent further disclosures, and restore the reasonable integrity of the EDgear Systems;

- (i) If a law enforcement agency determines that the notification required would impede a criminal investigation, such notification may be delayed until such law enforcement agency determines that the notification will no longer compromise such investigation;
- (b) assume responsibility for providing the notification required under the applicable federal and/or state law(s), including the following requirements under Louisiana law:
- (i) Notify each resident of Louisiana whose PII was, or is reasonably believed to have been, acquired by an unauthorized person; provided, however, that notification is not required if after a reasonable investigation EDgear and Licensee determine that there is not a reasonable likelihood of harm to such residents;
 - A. Notice shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement or any measures necessary to determine the scope of the Data Breach, prevent further disclosures, and restore the reasonable integrity of the EDgear Systems;
 1. If a law enforcement agency determines that the notification required would impede a criminal investigation, such notification may be delayed until such law enforcement agency determines that the notification will no longer compromise such investigation;
 - B. Notification may be provided by one of the following methods:
 1. Written notification;
 2. Electronic notification, if the notification provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. § 7001 (E-SIGN Act);
 3. Substitute notification, if EDgear or Licensee demonstrates that the cost of providing notification would exceed \$250,000, or that the affected class of persons to be notified exceeds 500,000, or Licensee does not have sufficient contact information;
 - a. Substitute notification shall consist of all of the following:
 - I. E-mail notification when Licensee has an e-mail address for the subject persons;

II. Conspicuous posting of the notification on the Internet site of EDgear or Licensee, if an Internet site is maintained;

III. Notification to major statewide media.

(ii) When notice to Louisiana residents is required pursuant to Section 5.3(b)(i), EDgear shall provide written notice detailing the Data Breach to the Consumer Protection Section of the Louisiana Attorney General's Office;

A. Notice shall include the names of all Louisiana residents affected by the Data Breach;

B. Notice to the Louisiana attorney general shall be delivered within 10 days of distribution of notice to Louisiana residents;

C. Written notification shall be mailed to:

Louisiana Department of Justice
Office of the Attorney General
Consumer Protection Section
1885 N. Third Street
Baton Rouge, LA 70802;

(c) hold harmless and indemnify Licensee and any of Licensee's officers, directors, employees, agents or affiliates against all losses, damages, costs or expenses in whatever form or nature that Licensee may incur as a result of a Data Breach event requiring notification under applicable federal or state law; and

(d) use its best efforts to mitigate any negative consequences caused to Licensee or a student of Licensee as a result of such Data Breach; and

(e) use its best efforts to implement procedures to prevent the recurrence an event similar to such Data Breach.

6. INFORMATION STORAGE, RETENTION, AND DISPOSITION

6.1. EDgear has implemented policies and procedures to address the storage, retention, and disposition of all Licensee Data.

6.2. EDgear shall perform regular backups of Licensee Data and shall retain backup copies of such Licensee Data for a commercially reasonable period of time, or for such period of time as may be required by federal or state law.

6.3. EDgear shall maintain and store backup copies of Licensee Data at a secure offsite storage facility or a secure offsite disaster recovery facility.

6.4. Except as specifically set forth in this Addendum, the Agreement, or as required by federal or state law, EDgear shall only retain the Licensee Data that is necessary to

provide the services set forth under this Addendum and the Agreement, and shall regularly dispose of, or return to Licensee, any Licensee Data that is no longer necessary to provide such services.

7. DISPOSAL OF INFORMATION UPON TERMINATION OF AGREEMENT

Except as specifically set forth in this Addendum, the Agreement, or as required by federal or state law, upon termination of the Agreement, EDgear shall:

- (a) return all Licensee Data to Licensee pursuant to the terms and conditions of a written agreement between EDgear and Licensee (the "Termination Agreement");
- (b) erase, destroy, or render unreadable all Licensee Data in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities; and
- (c) certify in writing that the actions set forth in this Section 7 have been completed on or before the agreed upon deadlines set forth in the Termination Agreement.

8. SURVIVAL

The confidentiality obligations set forth in this Addendum shall survive the termination of the Agreement for as long as Licensee's student PII remains confidential.

9. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana.

10. WAIVER OF BREACH

Waiver of a breach of any provision of this Agreement shall not be deemed a waiver of any other breach of the same or different provision.

11. LICENSEE'S RIGHT TO PROTECT STUDENT PII

In the event of a claim, suit, action, or proceeding against EDgear in which (a) EDgear cannot, or will not, defend itself, (b) there is a reasonable likelihood that Licensee's student PII may be disclosed to an unauthorized party in connection with such claim, suit, action, or proceeding, and (c) EDgear provides notice to Licensee that it cannot, or will not, defend itself in such claim, suit, action, or proceeding, EDgear grants Licensee the right, but not the obligation, to join in such claim, suit, action, or proceeding to defend against the disclosure of Licensee's student PII; provided, however, that EDgear retains all rights to assert its own defense in such claim, suit, action, or proceeding.

12. ENTIRE AGREEMENT

This Addendum together with the Agreement and any Exhibits, Schedules, Attachments or other Addenda constitutes the entire agreement between EDgear and Licensee with respect to EDgear Software Services and/or the Licensed EDgear Products and supersedes all prior proposals, oral and written, negotiations, representations, communications, writings, agreements, and communications between EDgear and Licensee. This Agreement may only be amended or modified by subsequent written agreement between duly authorized representatives of EDgear and Licensee. To the extent any provisions of this Addendum conflict or are inconsistent with any provisions or obligations of EDgear and/or Licensee contained in the Agreement, the provisions of this Addendum shall govern and control.

13. **SECTION HEADINGS**

The headings of sections in this Addendum are for reference only and shall not affect the meaning of this Addendum.

[Signature Page Follows]

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

EDgear of America Inc

By: _____

Name: Jeff Loftin

Title: CEO

Calcasieu Parish School District

By: _____

Name: KARL BRANCHIANS

Title: SUPERINTENDENT