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Terms of Use

Last updated on February 21, 2018

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We reserve the right to change these Terms of Use from time to time without notice. You acknowledge and agree that it is your responsibility to review these Terms of Use periodically to familiarize yourself with any modifications. Your continued use of this site after such modifications will constitute acknowledgment and agreement of the modified terms and conditions.

Unless you have entered into your own school or district contract with MobyMax, you signify your acceptance of these Terms of Use by using this site. Your continued use of MobyMax following the posting of changes to these Terms of Use will be deemed your acceptance of those changes.

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By visiting our Web Site and accessing the information, resources, services, products, and tools we provide for you, either directly or indirectly (hereafter referred to as 'Resources'), you agree to use these Resources only for the purposes intended as permitted by (a) the terms of these Terms of Use, and (b) applicable laws, regulations, and generally accepted online practices or guidelines.

Wherein, you understand that:

- a. In order to access our Resources, you may be required to provide certain information about yourself (such as identification, contact details, etc.) as part of the registration process, or as part of your ability to use the Resources.
- b. You are responsible for maintaining the confidentiality of any login information associated with any account you use to access our Resources. Accordingly, you are responsible for all activities that occur under your account/s.
- c. Accessing (or attempting to access) any of our Resources by any means other than through the means we provide is strictly prohibited. You specifically agree not to access (or attempt to access) any of our Resources through any automated, unethical, or unconventional means.
- d. Engaging in any activity that disrupts or interferes with our Resources, including the servers and/or networks our Resources are located on or connected to, is strictly prohibited.
- e. Attempting to copy, duplicate, reproduce, sell, trade, or resell our Resources is strictly prohibited.

Open Communication Tools

We may provide various open communication tools on our Web Site, such as blog comments, blog posts, public chat, forums, message boards, newsgroups, product ratings and reviews, various social media services, etc. You understand that generally we do not pre-screen or monitor the content posted by users of these various communication tools, which means that if you choose to use these tools to submit any type of content to our Web Site, then it is your personal responsibility to use these tools in a responsible and ethical manner. By posting information or otherwise using any open communication tools as mentioned, you agree that you will not upload, post, share, or otherwise distribute any content that:

- a. Is illegal, threatening, defamatory, abusive, harassing, degrading, intimidating, fraudulent, deceptive, invasive, racist, or contains any type of suggestive, inappropriate, or explicit language;
- b. Infringes on any trademark, patent, trade secret, copyright, or other proprietary right of any party.
- c. Contains any type of unauthorized or unsolicited advertising;
- d. Impersonates any person or entity, including any www.MobyMax.com employees or representatives.

We have the right at our sole discretion to remove any content that we feel in our judgment does not comply with these Terms of Use, along with any content that we feel is otherwise offensive, harmful, objectionable, inaccurate, or violates any 3rd party copyrights or trademarks. We are not responsible for any delay or failure in removing such content. If you post content that we choose to remove, you hereby consent to such removal, and consent to waive any claim against us.

We reserve the right to terminate your access to the open communication tools at any time, without notice, for any reason whatsoever.

We do not assume any liability for any content posted by you or any other 3rd party users of our Web Site.

Material You Provide to MobyMax

Materials ('Material') include any submission by posting, uploading, inputting, or otherwise providing to MobyMax except information that is provided as part of the registration or rostering process. Material includes but is not limited to your recommendations, reviews, suggestions, problems, lessons, lesson plans, and rubrics that you create. You are granting MobyMax and its agents permission to use your Material in connection with MobyMax's operation of the Web Site and its other businesses, including without limitation, the right and perpetual, irrevocable, worldwide, royalty-free, exclusive license to copy, distribute, transmit, publicly display, reproduce, edit, translate and reformat your Material, and to publish your name in connection with your Material, all without the payment of compensation to you in respect of any such use of your Material. You warrant and represent that you own, or otherwise control, all of the rights to your Material.

Indemnity

You agree, if permitted by law, to indemnify and hold harmless MobyMax and its parent company and affiliates, and their directors, officers, managers, employees, donors, agents, and licensors, from and against all losses, expenses, damages, and costs, including reasonable attorneys' fees, resulting from any violation of these Terms of Use, the failure to fulfill any obligations relating to your account incurred by you or any other person using your account, or arising out of your use of, or conduct on, our Web Site. We reserve the right to take over the exclusive defense of any claim for which we are entitled to indemnification under these Terms of Use. In such event, you shall provide us with such cooperation as is reasonably requested by us.

Limitation of Warranties

By using our Web Site, you understand and agree that all Resources we provide are "as is" and "as available". This means that we do not represent or warrant to you that:

- a) the use of our Resources will meet your needs or requirements,
- b) the use of our Resources will be uninterrupted, timely, secure or free from errors,

c) the information obtained by using our Resources will be accurate or reliable, and

d) any defects in the operation or functionality of any Resources we provide will be repaired or corrected.

Furthermore, you understand and agree that:

e) any content downloaded or otherwise obtained through the use of our Resources is done at your own discretion and risk, and that you are solely responsible for any damage to your computer or other devices for any loss of data that may result from the download of such content.

f) no information or advice, whether expressed, implied, oral or written, obtained by you from MobyMax or through any Resources we provide shall create any warranty, guarantee, or conditions of any kind, except for those expressly outlined in these Terms of Use.

Non-Commercial Use Limitation

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Homeschools and Homeschool Co-ops

Parents are welcome to create their own Homeschool teacher accounts to use for their children. The only way for Homeschool teachers to obtain full access is to purchase a teacher license. The price of a Homeschool license is the price of a teacher license and enables a parent to register all of their children in the Homeschool teacher account without additional cost.

MobyMax does not permit the creation of Homeschool accounts for the purpose of registering children from multiple parents. Specifically, Homeschool Co-ops may not register as either a teacher or a school for the purpose of lowering the license cost for their members.

Number of Students Allowed for Teacher Licenses

The maximum number of students allowed for a teacher license is 200 students.

Number of Students and Teachers Allowed for School Licenses

The number of students and teachers allowed for a school license is unlimited for a traditional brick-and-mortar school. All non-traditional schools, including but not limited to after-school programs, online schools, virtual schools, and adult education programs, require one school license for every 300 students.

Limitation of Liability

In conjunction with the Limitation of Warranties as explained above, you expressly understand and agree that any claim against us shall be limited to the amount you paid, if any, for products and/or services. MobyMax will not be liable for any direct, indirect, incidental, consequential, or exemplary loss or damages which may be incurred by you as a result of using our Resources, or as a result of any changes, data loss or corruption, cancellation, loss of access, or downtime to the full extent that applicable limitation of liability laws apply.

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Governing Law

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EXHIBIT "E"

GENERAL OFFER OF PRIVACY TERMS
Oceanside Unified

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and Oceanside Unified and which is dated June 18, 2019 to any other LEA ("Subscribing LEA") who accepts this General Offer through its signature below. This General Offer shall extend only to privacy protections and Provider's signature shall not necessarily bind Provider to other terms, such as price, term, or schedule of services, or to any other provision not addressed in this DPA. The Provider and the other LEA may also agree to change the data provided by LEA to the Provider in Exhibit "B" to suit the unique needs of the LEA. The Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statutes; (2) a material change in the services and products subject listed in the Originating Service Agreement; or three (3) years after the date of Provider's signature to this Form. Provider shall notify CETPA in the event of any withdrawal so that this information may be transmitted to the Alliance's users.

MobyMax LLC

BY: _____

Date: 6/19/19

Printed Name: _____

John Jennings

Title/Position: _____

RFP Manager

2. Subscribing LEA

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA and the Provider shall therefore be bound by the same terms of this DPA.

BY: _____

Date: _____

Printed Name: _____

Title/Position: _____

TO ACCEPT THE GENERAL OFFER, THE SUBSCRIBING LEA MUST DELIVER THIS SIGNED EXHIBIT TO THE PERSON AND EMAIL ADDRESS LISTED BELOW

Name: John Jennings

Title: RFP Manager

Email Address: rfp@mobymax.com

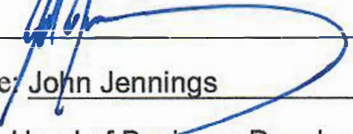
AMENDMENT
TO THE
MobyMax
AND
DAVIS JOINT UNIFIED SCHOOL DISTRICT
(Venue and Data Privacy Law)

This Contract Amendment executed by MobyMax hereinafter referred to as "Vendor", and Davis Joint Unified School District, hereinafter referred to as "District", which document shall amend the Agreement between the Vendor and District ("Service Agreement") as follows:

1. The Service Agreement shall be governed by and construed in accordance with the laws of the State of California and all disputes arising out or relating to the Service Agreement shall be heard in Superior Court in Yolo County, California.
2. The parties agree to adopt the California Student Data Privacy Agreement ("CSDPA"), the contents of which are incorporated herein by reference. In the event there is a conflict between the CSDPA and the Service Agreement, the CSDPA shall apply and take precedence.

Subject to the terms and conditions set forth in this Amendment, the above referenced Service Agreement between the parties is hereby ratified and confirmed.

MobyMax

By: 
Name: John Jennings
Title: Head of Business Development
Date: 10.16.19

DAVIS JOINT UNIFIED SCHOOL DISTRICT

By: _____
Name: Bruce E. Colby
Title: Chief Business and Operations Officer
Date: _____