

SOFTWARE LICENSE AND SUPPORT AGREEMENT

THIS SOFTWARE LICENSE AND SUPPORT AGREEMENT (“Agreement”) is entered into as of _____ (“Effective Date”), by and between the Davis Joint Unified School, a California public school district (“District”), having an address at 526 B Street, Davis, CA 95616 and Emics, Inc. dba Chalk Schools, a California corporation (“Company”) having an address at 230 California St., Suite 601, San Francisco, CA 94111. District and Company are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the Agreement consists of the following documents:

1. This Software License and Support Agreement; and
2. Exhibit “A” – Privacy Policy, which is hereby incorporated by reference.

WHEREAS, Company agrees that no other documents, policies, agreements or terms of use shall apply to District, regardless of any reference to such documents by Company, including, but not limited to, reference on its website and/or in the Software, as defined below.

WHEREAS, Company has developed a web-based software which allows users, including, without limitation, students, parents, teachers and District staff, to review, fill-out and sign District required documents (“Software”); and

WHEREAS, in conjunction with use of the Software, Company offers support and maintenance which includes without limitation, advanced access to new features, upgrades and new version releases of the Software; dedicated client success and implementation specialists; browser and device support; and year-round phone, chat and email support form managers and recipients (“Support Services”); and

WHEREAS, District desires to have access to, and use of, the Software and associated Support Services; and

WHEREAS, Company has agreed to grant District a non-exclusive, limited license to use the Software pursuant to the terms and conditions of this Agreement and the Exhibits attached hereto.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

1. License.

Company hereby grants to the District a non-exclusive, limited license (“License”) to use the Software pursuant to the terms and conditions contained in this Agreement, including without limitation, any upgrades and new version releases.

2. Warranty.

Company hereby represents and warrants to District that Company is the owner of the Software or otherwise has the right to provide the Software to District in accordance with the terms of this Agreement; Company is the sole owner or is a valid licensee of all software, text, pictures, audio, video, logos and copy that provides the foundation for provision of the Software, and has secured all necessary licenses, consents, and authorizations with respect to the use of these underlying elements; the Software does not and shall not infringe upon any patent, copyright, trademark or other proprietary right or violate any trade secret or other contractual right of any third party; and there is currently no actual or threatened suit against Company by any third party based on an alleged violation of such right. This warranty shall survive the expiration or termination of this Agreement.

Company further warrants that during the term of this Agreement the Software shall perform materially and substantially in accordance with the Agreement; and that the functionality of the Software will not be materially or substantially decreased during the term of the Agreement. Company warrants that during the term of this Agreement, any Software made available by Company to the District will be free from defects in material and workmanship. Company further warrants that during the term of the Agreement the Software shall operate materially and substantially in accordance with the functional specifications in the Agreement under normal, proper and intended usage and that the Services do not contain any malicious code, computer worms, viruses or other harmful code or disabling device or any unlawful, discriminatory, libelous, harmful, obscene or otherwise objectionable material of any kind.

3. Term of Agreement.

The initial term of this Agreement shall be one calendar year from the Effective Date, unless earlier terminated as provided herein. After that date, District may renew this Agreement annually by written notice to the Company to continue to license the Software and to receive Support Services at the same annual license fee charged by Company for the initial term. In the event that Company and District agree to extend this Agreement, the terms and conditions for the renewal term shall be the same terms and conditions of this Agreement. In no event shall the total term of the Agreement exceed five years.

4. Fee.

Company will host the Software and District will pay an annual license fee as listed below:

Service	Unit Price	Overview	Cost
Chalk Internal Office forms and workflow processes: 5 process package	\$1,000	<ul style="list-style-type: none"> - Automatically collect, route, and track responses and approvals - Unlimited electronic signatures, interactive form fields, pre-filled data fields, and reusable templates - Online access to database from anywhere 	\$5,000
Chalk Forms Include:	Term	Description	
Chalk Forms Manager	1-year license included with forms	<ul style="list-style-type: none"> - Upload and convert existing documents - Create links or email forms - Online webinars as needed 	
Archiving	Included for all responses	Unlimited responses archived <ul style="list-style-type: none"> - Unlimited data and PDF downloads - Full access search - Nightly back-ups for all data 	
Support and maintenance	1-year	Continuous upgrades <ul style="list-style-type: none"> - Extensive browser and device support - 24x7x365 phone, chat, and email support for form managers and recipients 	
Dedicated consulting	Ongoing	Setup and process consultation with dedicated implementation specialist	
TOTAL COST:			\$5,000

License and other fees are due and payable within 30-days of receipt of invoice from Company.

5. Software Maintenance and Support.

In consideration of the payment of the License fee identified in Section 3, Company shall provide Support Services to the District. Such maintenance and support provides coverage in the form of corrections to remove deficiencies in the Software, as reported to Company; year-round telephone, chat and e-mail support for questions regarding operations of the Software; incorporate/change the Software as necessary for operation including all upgrades and new features; and support to District in resolving problems/errors resulting from misuse or hardware/software failure. Support Services are provided at no additional cost to the District.

6. Indemnification.

a. General Indemnity. Company agrees to and does hereby indemnify, hold harmless and defend the District and its Board of Trustees, officers, employees and agents from every claim or demand made and every liability, loss, damage or expense (including attorneys' fees), of any nature whatsoever, which may be incurred by reason of any injury to or death of any person(s), or damage to, or loss of any property caused by any act, neglect, default, or omission of the Company, or any person, firm or corporation employed by the Company, either directly or by independent contract, arising out of, or in any way connected with, the services covered by this Agreement, whether said injury or damage occurs either on or off District's property, except for liability for damages which result from the sole negligence or willful misconduct of the District or its officers, employees or agents.

b. Intellectual Property Indemnity. Company shall indemnify, defend, and hold harmless District, its officers, agents, and employees against all claims, losses, damages, liabilities, costs and expenses (including but not limited to attorneys' fees) resulting from any judgment or proceeding in which it is determined or any settlement contract arising out of the allegation, that Company furnishing or supplying District with goods, components, programs, practices, or methods under this Agreement or the District's use of such goods, components, programs, practices or methods supplied by Company under this Agreement constitutes an infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary or contractual right of any third party.

c. Indemnification Procedure. Company's obligation to indemnify, hold harmless and defend is subject to the condition that Company is given prompt notice of any claims and is given primary control of all reasonably requested assistance for the defense of such claims (with counsel reasonably satisfactory to District), provided that the District shall under no circumstances be required to admit liability, and provided further that any delay in notification shall not relieve Company of its obligations hereunder, except to the extent that the delay materially impairs its ability to indemnify, hold harmless and defend. Without limiting the foregoing, District may participate in the defense at its own expense and with its own counsel; provided that if the District reasonably concludes that Company has conflicting interests or different defenses available with respect to such claim, the reasonable fees and expenses of one counsel to District shall be borne by Company. Company shall not enter into nor acquiesce to any settlement containing any admission of or stipulation to any guilt, fault, liability or wrongdoing on the part of District or which would otherwise adversely affect District without District's prior written consent (which shall not be unreasonably withheld). Company shall keep

District advised of the status of the claims, and the defense thereof, and shall consider in good faith the recommendations made by District with respect thereto.

7. Insurance.

Company shall carry and maintain, throughout the term of this Agreement, the following insurance policies and coverages:

a. Comprehensive General And Automotive Liability Insurance. Comprehensive general and automobile liability insurance with limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury and property damage in a form mutually acceptable to both Parties to protect Company and District against liability or claims of liability which may arise out of this Agreement. In addition, Company agrees to provide an endorsement to this policy stating, "Such insurance as is afforded by this policy shall be primary, and any insurance carried by District shall be excess and noncontributory." Company shall provide District with certificates of insurance evidencing all coverages and endorsements required hereunder including a thirty (30) day written notice of cancellation or reduction in coverage. Company agrees to name District and its officers, agents and employees as additional insured under said policy. Company agrees to maintain workers' compensation insurance as required under the laws of the State of California.

b. Cyber Liability (Security and Identity Theft Coverage). Company shall indemnify, defend and hold District harmless from all claims, liabilities, damages or judgments involving a third party, including District's costs and attorneys' fees, which arise as a result of such unauthorized disclosures or misuse of District Confidential Information, or Company's breach of any terms of the Agreement, excluding those claims, liabilities, damages or judgments arising from the sole active negligence or willful misconduct of District.

8. Continued Performance During Dispute.

In the event that a dispute arises between District and Company, Company expressly agrees to continue to perform its obligations under this Agreement during the pendency of the dispute. Each party agrees to the other that it shall diligently attempt to resolve any disputes which may arise.

9. Default.

The failure of either party to comply with any term or condition or fulfillment of any obligation of this Agreement within fifteen (15) days after written notice, which specifies the nature of the default with reasonable particularity, shall constitute a default. If the default is of such a nature that it cannot be completely remedied within the 15-day period, the "defaulting party" shall be deemed to have cured the default if it begins correction of the default or failure within the 15-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

10. Force Majeure.

If either Party is affected by force majeure it shall immediately notify the other party of the nature and extent thereof. Force majeure means, in relation to either party, any circumstances beyond the reasonable control of that party (including, without limitation, fire, floods, acts of God, terrorism, national emergency, governmental acts or omissions, beyond the control of either party). Neither party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other by reason of any delay in performance, or non-performance, of any of its obligations hereunder to the extent that such delay or non-performance is due to any force majeure of which it has notified the other party, and the time for performance of that obligation shall be extended accordingly. If the force majeure in question prevails for a continuous period in excess of thirty (30) calendar days, the Parties shall enter into good faith discussions with a view to alleviating its effects, or to agreeing upon such alternative arrangements. (Including termination of this Agreement.)

11. Termination.

a. Termination by District:

(i) District may, at any time, with or without reason, terminate this Agreement and compensate Company only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Company. Notice shall be deemed given when received by the Company or no later than three (3) days after the day of mailing, whichever is sooner. In the event of termination, the District shall be entitled to a prorated refund of any advanced payments of the license and other fees as specified in Section 3 herein, from the effective date of the termination up to the end of the term for which advance payment was made.

(ii) The rights and remedies provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

b. Termination by Company:

(iii) Company may terminate this Agreement for cause upon giving of written notice of intention to terminate for cause. Cause shall include: (a) material violation of this Agreement by the District; or (b) any act by District exposing the Company to material liability to others for personal injury or property damage. Written notice by Company shall contain the reasons for such intention to terminate and unless within thirty (30) days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the thirty (30) days cease and terminate. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to Company. Written notice by Company shall be deemed given when received by the other party or no later than three (3) days after the day of mailing, whichever is sooner.

c. Termination or Expiration. Upon termination or expiration of this Agreement, Company will ensure that all District Confidential Information as defined in Section 12 of this

Agreement, is transferred to District or a third party designated in writing by District securely, within a reasonable period of time, and without significant interruption in services. Company shall ensure that such migration uses facilities and methods which are compatible with the relevant systems of the transferee and, to the extent technologically feasible, that District will have reasonable access to District Confidential Information, during the transition.

12. Data Security; Ownership and Control of District Confidential Information.

Company provides software that is authorized to access, store and use District Confidential Information and/or provides services, including cloud-based services, for the digital storage, management and/or retrieval of District Confidential Information. As a California school district, District is subject to certain provisions of the California Education Code. The District is a “local educational agency” under California Education Code section 49073.1(d)(3), which defines “local educational agency” as including school districts, county offices of education, and charter schools. The Company is a “third party” under California Education Code section 49073.1(d)(6), which defines “third party” as a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Pupil Records, as defined below. California Education Code section 49073.1 requires that any contract for the provision of services entered into between District and Company contain provisions specified in sections (b)(1) through (b)(9) of California Education Code section 49073.1;

- a. Definitions: As used herein the following terms are defined as follows:
 - i. “Adult Pupil” means a Pupil who has reached 18 years of age.
 - ii. “District Confidential Information” means documents, information and data, including Pupil Records and User Data, as defined below, submitted to Company by District for processing through Company’s Software and/or documents, information and data input or maintained by District through Company’s services.
 - iii. “Deidentified Information” means information that cannot be used to identify an individual Pupil.
 - iv. “Parent” means a natural parent, an adopted parent or legal guardian of a Pupil.
 - v. “Pupil” means a student of District.
 - vi. “Personally Identifiable Information” includes: 1) the Pupil’s name, 2) the name of the Pupil’s parent or other family members, 3) the address of the Pupil or Pupil’s family, 4) a personal identifier, such as a Pupil’s social security number, Pupil’s number, or biometric record, 5) other indirect identifiers, such as the Pupil’s date of birth, place of birth, and mother’s maiden name, 6) other information that, alone or in combination, is linked or linkable to a specific Pupil that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the Pupil with reasonable certainty, or 7) information requested by a person who the educational agency or institution reasonably believes knows the identity of the Pupil to whom the Pupil Record relates.

vii. “Pupil Records” means both of the following regardless of how otherwise defined or described in the Agreement: 1) any information directly related to a Pupil that is maintained by District, 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 District employee. “Pupil Records” does not mean aggregated Deidentified Information used by Company for the following purposes: to improve educational products for adaptive learning purposes and for customizing Pupil learning; to demonstrate the effectiveness of the Company’s products in the marketing of those products; or for the development and improvement of educational sites, services, or applications.

viii. “Pupil Generated Content” means materials created by a Pupil, including but not limited to essays, research reports, portfolios, creative writing, music or other audio files, photographs; but it does not include Pupil responses to a standardized assessment where Pupil possession and control would jeopardize the validity and reliability of that assessment.

ix. “User” means any person(s), including, without limitation, students, parents, teachers and District staff, that use the Software and services to review, fill-out and sign District required documents.

x. “User Data” means any documents, information and data submitted to Company, by any User, for collecting, processing, routing and tracking through Company’s Software and/or documents, information and data input or maintained by any User through Company’s Software.

b. Ownership and Control of District Confidential information. All District Confidential Information remain the exclusive property of District and District retains exclusive rights, ownership and control thereto.

c. Ownership and Control of Generated Content. A Pupil may retain possession and control of his/her own Pupil Generated Content retained, stored or hosted by Company’s software/information systems by accessing Pupil Generated Content through Pupil’s user account/user portal with Company by entering the Pupil’s Company account/portal user name and password, which allows a Pupil to edit, save, download and upload his/her Pupil Generated Content. A Pupil may also transfer Pupil Generated Content to a personal account by accessing his/her Pupil Generated Content through his/her user account, digitally copying, downloading and/or uploading the Pupil Generated Content and uploading the Pupil Generated Content to a Company or non-Company personal account.

d. Use of District Confidential Information. Company shall not use District Confidential Information to which it has access by way of the Agreement for any purpose other than those required or specifically permitted by the Agreement.

e. Review and Correction of Pupil Records. A Parent or Adult Pupil may review his/her Pupil Records that are retained, stored, hosted, accessed or used by Company by making a request in writing to District for access to his/her subject Pupil Records. Subject to District verification of identity, approval of disclosure and redaction of any Personally Identifiable Information of a Pupil, other than the Parent of the Pupil or Adult Pupil who is making the

request, District will direct Company to provide access to any/all requested Pupil Records within five (5) business days or as otherwise required by law, by issuing the Parent or Adult Pupil a temporary user name and password to log on to the Company's software/information system to review the requested Pupil Records. This time frame may be extended by written consent of the Parent or Adult Pupil. District shall have exclusive authority over Company with respect to authorizing disclosure of Pupil Records pursuant to this Agreement.

A Parent or Adult Pupil may correct erroneous information identified upon review of Pupil Records by making a written request to District. Subject to District's verification of identity and approval of such a request to correct erroneous information, District shall notify Company of the approved request. Company shall correct the erroneous information as directed by District.

Company shall direct all requests to review and/or correct erroneous information to District through the following contact information:

Matt Best
Associate Superintendent of Administrative Services
Davis Joint Unified School District
526 B St., Davis, CA 95616
Email: mbest@djud.net
Tel: 530-757-5300 x 105

f. Security and Confidentiality of District Confidential Information. Company will do the following to ensure the security and confidentiality of District Confidential Information:

i. Designate an employee responsible for the training and compliance of all Company employees, agents, and assigns on compliance with security and confidentiality provisions detailed in this Agreement.

ii. Company will protect the confidentiality of District Confidential Information and take all reasonably necessary measures consistent with industry standards to protect District Confidential Information from any and all unauthorized access and disclosures.

iii. Company represents and warrants that it has designated an individual responsible for training Company employees, agents and assigns on reasonable protection measures and the confidentiality of District Confidential Information consistent with state and federal law.

iv. Company shall not disclose District Confidential Information, except as specified under the terms of the Agreement, or as required by law.

v. Company shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all stored, managed, retained, accessed or used District Confidential Information received from or on behalf of District and Users.

vi. Company warrants that all confidentiality and security measures identified in the Agreement will be extended by contract to any and all subcontractors used by Company, if any, to execute the terms of the Agreement.

vii. Company warrants that all District Confidential Information will be encrypted in transmission and storage.

viii. Company will use appropriate and reliable storage media, regularly backup District Confidential Information and retain such backup copies for the duration of the Agreement.

ix. Company warrants that all District Confidential Information will be stored in the United States.

x. Company warrants that all confidentiality and security measures identified in this Agreement will be extended by contract to any and all subcontractors used by Company, if any, to execute the terms of the Agreement.

xi. Compliance with this requirement shall not, in itself, absolve Company of any liability in the event of an unauthorized disclosure of District Confidential Information.

g. Unauthorized Disclosure Notifications. In the event of an unauthorized disclosure of District Confidential Information the following process will be implemented:

i. Immediately upon becoming aware of a compromise of District Confidential Information, or of circumstances that could have resulted in an unauthorized access to or disclosure of District Confidential Information, District and Company agree to notify the other party, fully investigate the incident and fully cooperate with District's investigation of the incident, implement remedial measures and respond in a timely manner.

- a) Parent or Adult Pupil will be immediately notified of:
- b) the nature of the unauthorized use or disclosure (e.g., security breach, nonconsensual re-disclosure, etc.);
- c) the specific Pupil Records that were used or disclosed without authorization;
- d) what Company and District have done or will do to mitigate any effects of the unauthorized use or disclosure; and
- e) what corrective action Company and District have taken or will take to prevent future occurrences.

ii. Except as otherwise required by law, Company will not provide notice of the incident directly to the Parent or Adult Pupil whose Pupil Records were involved, regulatory agencies, or other entities, without prior written permission from District. Compliance with this

requirement shall not, in itself, absolve Company of any liability in the event of an unauthorized disclosure of District Confidential Information.

h. Retention and Destruction of District Confidential Information. Company warrants that upon the termination of the Agreement, Company will securely transmit all District Confidential Information to District in a mutually agreed upon format, without retaining any copies of District Confidential Information. In the alternative, and subject to a written request from District, Company will securely destroy all District Confidential Information upon termination of the Agreement. Company will then provide verification to District that the District Confidential Information, not otherwise returned to District, was destroyed pursuant to District's written request, the date of destruction and the method of destruction. If Pupil chooses to establish or maintain an account with Company for the purpose of storing Pupil Generated Content, this provision shall not apply. Notwithstanding this provision, Company will comply with all litigation holds and/or court orders to preserve District Confidential Information.

i. Compliance with Applicable Laws. As District Confidential Information includes Pupil Records subject to the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) ("FERPA"), Company will be considered a "School Official" (as the term is used in FERPA and its implementing regulations) for any and all software, hosting and services provided to District through the Agreement. District and Company agree that the services provided to District through the Agreement serve a "legitimate educational interest," as defined and used in FERPA and its implementing regulations. District and Company will jointly ensure compliance with FERPA, its implementing regulations and Pupil privacy and confidentiality requirements of California law, including but not limited to California Education Code section 49060 et seq. The Parties shall comply with the following process for compliance with FERPA and California law:

i. Company and District warrant that they are familiar with the confidentiality, security and disclosure requirements of FERPA, its implementing regulations and Pupil privacy and confidentiality requirements of California law, including but not limited to California Education Code section 49060 et seq. and have designated an individual responsible for ensuring compliance therewith.

ii. Company and District shall abide by the disclosure, security, breach notification, retention/destruction and use provisions contained in this Agreement and as required by law.

iii. By the signature of its authorized representative or agent below, Company hereby acknowledges that District has provided notice under California Education Code section 49075(a) and 34 C.F.R. section 99.33(d) that Company is strictly prohibited from disclosing Pupil Records to any third party without the prior written consent and direction to authorize disclosure by District.

Compliance with this requirement shall not, in itself, absolve Company of its duty to comply other applicable privacy laws. Company hereby agrees to comply with all other applicable federal and state privacy laws.

j. Targeted Advertising Prohibited. Company shall not use any District Confidential Information to engage in targeted advertising during the term of the Agreement, and this provision shall survive the termination of the Agreement.

k. Material Breach and Termination of Agreement. If District reasonably determines in good faith that Company has materially breached any of its obligations under this Section, District, in its sole discretion, shall have the right to provide Company with written notice of a fifteen (15) day period to cure the breach. If Company fails to cure a breach within that period of time, District may terminate the Agreement immediately. If, in its sole discretion, District determines that cure is not possible, District may provide written notice of immediate termination of the Agreement.

l. Insurance and Indemnity. Company shall obtain and maintain for the duration of the Agreement Five Million Dollars (\$5,000,000.00) in Cyber Liability Insurance to cover Security, Privacy, Business Interruption, Cyber Extortion, and Denial of Service. Company shall indemnify, defend and hold District harmless from all claims, liabilities, damages or judgments involving a third party, including District's costs and attorney's fees, which arise as a result of such unauthorized disclosures or misuse of District Confidential Information, including Pupil Records, or Company's breach of any terms of the Agreement, excluding those claims, liabilities, damages or judgments arising from the sole active negligence or willful misconduct of District.

13. Data Security, Integrity, Compromise, Retention and Disposal.

a. Data Security. All facilities used by Company to store and process District Confidential Information will employ commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will be no less protective than those used to secure Company's own confidential data, and in no event less than reasonable in view of the type and nature of the data involved. Without limiting the foregoing, Company warrants that all District Confidential Information will be encrypted in transmission and storage. Company will use industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in the performance of this Agreement.

b. Data Integrity. Company will take commercially reasonable measures, including regular data integrity audits, to protect District Confidential Information against deterioration or degradation of data quality and authenticity.

c. Data Compromise. Immediately upon becoming aware of a compromise of District Confidential Information, or of circumstance that could have resulted in unauthorized access to or disclosure or use of District Confidential Information, Company will notify District, fully investigate the incident, and cooperate fully with District's investigation of and response to the incident. Except as otherwise required by law, Company will not provide notice of the incident directly to the persons whose data were involved, regulatory agencies, or other entities, without prior written permission from District.

d. Data Retention and Disposal. Using appropriate and reliable storage media, Company will regularly back up District Confidential Information and retain such backup copies for the duration of the Agreement term. At the end of the term, at the District's election, Company will either securely destroy or transmit to District repository the backup copies. Upon District's request, Company will supply District a certificate indicating the records were destroyed, the date destroyed and the method of destruction used.

14. Waiver.

Any waiver of any of the provisions of this Agreement shall not be construed as a waiver of any other provision of this Agreement. Any waiver by either District or Company must be in writing signed by the waiving party. Delay or failure to exercise a remedy or right shall not be construed as a waiver of any of the provisions of this Agreement. Any waiver of any provision of this Agreement shall not preclude a party from using any other right or remedy available under this Agreement as cure of any default or for any later default.

15. Time Is of the Essence.

Time is of the essence of all terms, covenants and conditions of this Agreement and except as otherwise provided herein, all of the terms, covenants and conditions of this Agreement shall apply to, benefit and bind the successors or assigns of the respective Parties, jointly and individually.

16. Assignment.

Neither party shall sell or assign its rights under this Agreement without the prior written consent of the other party. Consent in one instance shall not prevent this provision from applying to a subsequent instance.

17. Notices.

All notices, requests, demands and consents to be made hereunder to the Parties hereto shall be in writing and shall be: (i) delivered by hand; or (ii) sent by registered mail or certified mail, postage prepaid, return receipt requested, through the United States Postal Service; or (iii) by United Parcel Service or Federal Express overnight delivery, to the addresses shown below or such other address which the Parties may provide to one another in accordance herewith.

To District: Matt Best
Associate Superintendent of Administrative Services
Davis Joint Unified School District
526 B St. Davis, CA 95616
Email: mbest@djud.net
Tel: (530)757-5300 x 105

To Company: Anthony Gonzalez
Emics, Inc. dba Chalk Schools
230 California Street, Suite 601
San Francisco, CA 94111

Either Party shall have the right to change the place of giving notices to it by notice given as indicated above.

18. Severability.

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

19. Interpretation: Governing Law.

This Agreement shall be construed according to its fair meaning and as if prepared by both Parties hereto. This Agreement and the rights and obligations of the Parties hereunder shall be construed in accordance with and shall be governed by the internal laws of the State of California. Any suit or other proceeding to enforce or interpret this Agreement shall be brought in, and each party hereby consents to the jurisdiction and venue of, the courts of Yolo County in the State of California, United States of America or in the Federal District Court for the Eastern District of California, if applicable.

20. Entire Agreement, Order of Precedence, Waivers and Amendments.

This Agreement is fully integrated and incorporates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations, oral or written, prior and contemporaneous agreements and understandings in connection with this Agreement. In the event of any conflict or inconsistency in the interpretation of this Agreement (including Exhibits) such conflict or inconsistency shall be resolved by first giving precedence to the body of this Agreement, then to any Exhibits. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the party to be charged. Any amendment or modification to this Agreement must be in writing and executed by both Parties.

21. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

22. Compliance with Applicable Laws.

Company agrees to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to Company, Company's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

23. Permits/Licenses.

Company and all Company's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Agreement.

24. Taxes.

Company shall pay all contributions, taxes and premiums payable under federal, State and local laws measured upon the payroll of its employees engaged in the performance of work under this Agreement, and all applicable sales, use, excise, transportation, privilege, occupational and other taxes applicable to furnishing the work performance hereunder and shall save District harmless from liability for any such contributions, premiums, and taxes for Company's employees and sub-contractors, if applicable.

25. Headings.

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

26. Use of District Name.

Company shall not, without the express written permission of the District, use the name, or any abbreviation of it, or any name of which these words are a part in any of the following ways to imply, indicate or otherwise suggest that any organization, or any product or service of that organization, is connected or affiliated with, or is endorsed, favored or supported by District.

IN WITNESS HEREOF, the Parties hereto have entered into this Agreement as of the Effective Date.

DISTRICT:

Davis Joint Unified School District

PROVIDER:

Emics, Inc. dba Chalk Schools

By _____
Name: _____
Title: _____

By _____
Name: _____
Title: _____

EXHIBIT A
PRIVACY POLICY
(Attached)