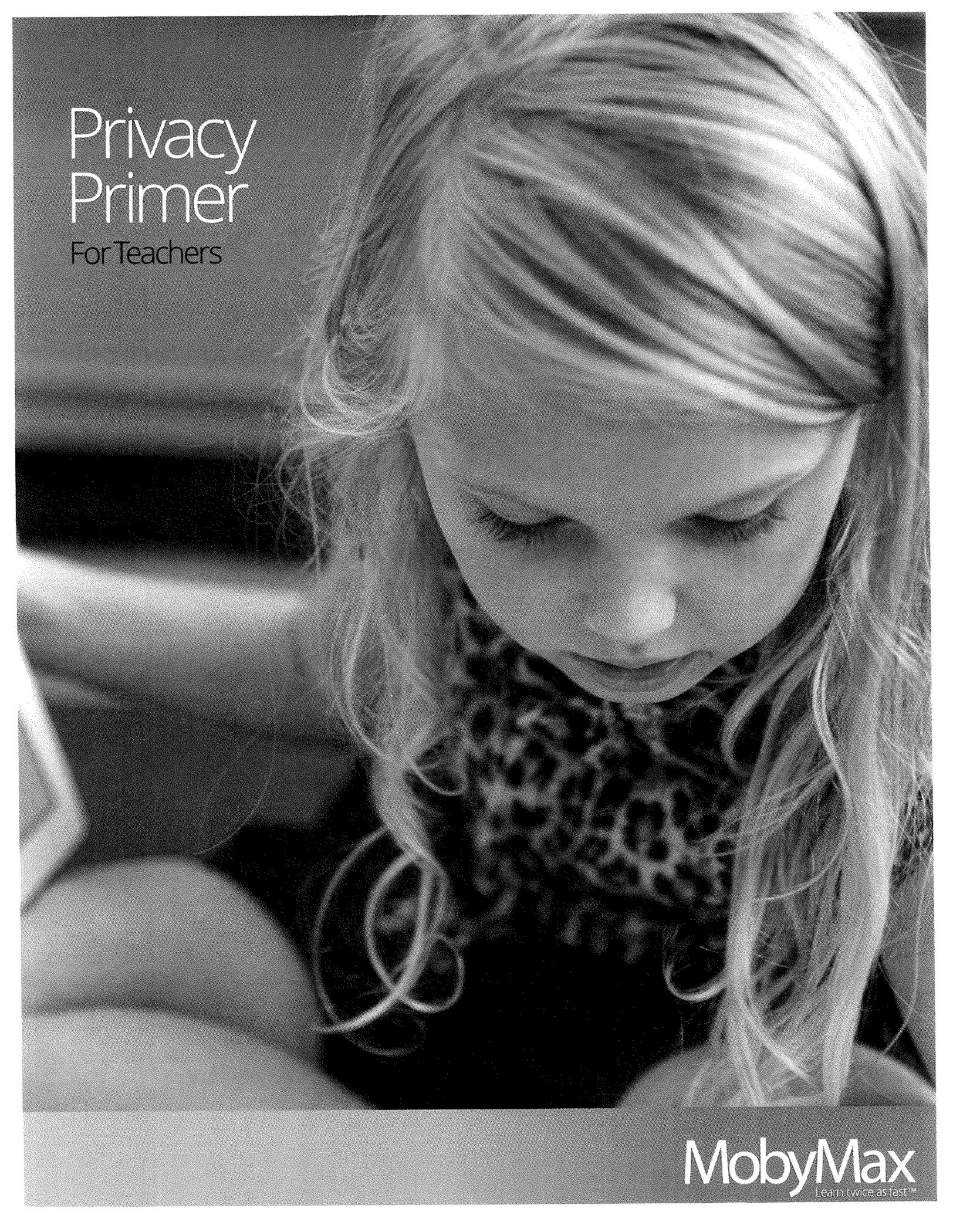


**CONTRACT NAME: AGREEMENT BETWEEN MOBY MAX  
AND DAVIS JOINT UNIFIED SCHOOL DISTRICT**

**BRIEF DESCRIPTION OF CONTRACT:** This agreement between Moby Max and DJUSD is a software program that allows teachers to provide math practice for students and to assess student progress. Students are able to use access the program from home with their daily assignments.

The cost of this program is allocated in the site budget.



Privacy  
Primer  
For Teachers

MobyMax  
Learn twice as fast™

Dear Teachers, Parents, and Administrators,

Student privacy is just as important to us as it is to you.

Our security starts with the data you enter into our program. Only the most basic personal information (name and grade level) is entered into MobyMax.

We never share your information with third parties, with only one exception: with your explicit permission, we may allow educational researchers to access aggregate class information.

We are 100% committed to protecting all student information. We have three different ways you can learn about our privacy policies.

1. You can read our detailed privacy policy here:

<http://support.mobymax.com/support/solutions/articles/11000011956-what-is-your-privacy-policy->

2. You can review this Privacy Primer and frequently asked questions about how MobyMax protects students' privacy.

3. You can reach out to us. We're here to answer any additional questions you might have. Please don't hesitate to call us at 1-888-793-8331 (between 8 am and 5 pm ET) Monday-Friday, or email us at [support@mobymax.com](mailto:support@mobymax.com) anytime.

Thank you for using and trusting MobyMax.

*Slynn & Wade*

### What we do

- Comply with COPPA and FERPA.
- Allow teachers to replace student first and last names with nicknames or aliases.
- Allow parents/guardians to view a student's progress, time spent, and lesson data.
- Allow students to view their own data.
- Allow student accounts to be soft-deleted or permanently deleted.
- Constantly monitor the security and integrity of data.
- Share IP addresses of login locations when requested by school administrators.
- Have separate login credentials for students, teachers, administrators, and parents.
- Verify school and district administrators.

### What we don't do

- Collect sensitive student information such as address, social security number, or date of birth.
- Sell or rent user information.
- Display commercial advertising.
- Allow students to contact one another privately through the program.
- Allow access to class-wide data to anyone other than an authorized teacher, administrator, or researcher.

# MobyMax Learn twice as fast Frequently Asked Questions

**Q: Does MobyMax comply with COPPA and FERPA?**

**A:** Yes. MobyMax fully complies with all of the policies outlined in both COPPA and FERPA.

**Q: Do students or teachers see ads?**

**A:** No. MobyMax does not allow any form of commercial advertisement from third parties, including the use of email lists.

**Q: Who may access student data?**

**A:** Only authorized persons can access student data. The student and parent/guardian of the student have access to the student's account at all times via a username and password. Additionally, the school district administrators and teacher(s) assigned to the student have access to the student account through their own password-protected accounts. MobyMax representatives have access to administrator, teacher, and student accounts for the sole purpose of assisting those individuals with access to their accounts. Education researchers have access to aggregate data only when given explicit permission by school or district administrators.

**Q: Who owns student data?**

**A:** The district and/or school that the student attends owns the exclusive rights to the student's data. MobyMax does not claim ownership of any student data.

**Q: What control do school and district administrators have?**

**A:** School and district administrators have complete access to all student data within their respective domains. Each district is responsible for assigning and maintaining their own administrator accounts to oversee all accounts within the district. All administrator accounts are verified by MobyMax staff before the administrator is given access.

All student accounts remain registered and active from year to year until they are deleted when given explicit permission from school or district administrators.

# **MobyMax** Learn twice as fast Frequently Asked Questions

**Q: How can parents see their child's progress?**

**A:** Parents can use the password-protected Parent Portal to access a limited view of progress and work that has been completed. The Parent Portal only allows the parent to view his or her child's data.

**Q: Can students send messages to other students?**

**A:** No. Students can't message one another directly. They can only communicate with one another in a teacher-moderated interface known as the "Wall" if allowed by the teacher. Teachers and students can send messages to each other.

**Q: Can a teacher control what a student sees?**

**A:** Yes. The teacher or administrator can hide any feature in Moby at any time.

# What are your Terms of Use?

Modified on: Wed, Sep 21, 2016 at 8:12 AM

This Web Site ([www.MobyMax.com](http://www.MobyMax.com)) is owned and operated by MobyMax, LLC (hereafter referred to as 'MobyMax'). By visiting our Web Site ('Web Site') and accessing the information, resources, services, products, and tools we provide, you understand and agree to accept and adhere to the following terms and conditions as stated in this policy (hereafter referred to as 'User Agreement').

We reserve the right to change this User Agreement from time to time without notice. You acknowledge and agree that it is your responsibility to review this User Agreement 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.

## Responsible Use and Conduct

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 this User Agreement, 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 to which our Resources are located or connected, 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.
- e. We have the right at our sole discretion to remove any content that, we feel in our judgment does not comply with this User Agreement, 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.
- f. We reserve the right to terminate your access to the open communication tools at any time, without notice, for any reason whatsoever.
- g. We do not assume any liability for any content posted by you or any other 3rd party users of our Web Site.

### **Material Provided to MobyMax**

Materials ('Material') included any submission by posting, uploading, inputting, or otherwise providing to MobyMax except information that is provided as part of the registration or rostering process. 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 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 this User Agreement, 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 this User Agreement. 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:

- i) the use of our Resources will meet your needs or requirements.
- ii) the use of our Resources will be uninterrupted, timely, secure or free from errors.
- iii) the information obtained by using our Resources will be accurate or reliable, and
- iv) any defects in the operation or functionality of any Resources we provide will be repaired or corrected.

Furthermore, you understand and agree that:

- v) 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.

vi) 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 this User Agreement.

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### **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 use of 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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You agree that we may, at our sole discretion, suspend or terminate your access to all or part of our Web Site and Resources with or without notice and for any reason, including, without limitation, breach of this User Agreement. Any suspected illegal, fraudulent or abusive activity may be grounds for terminating your relationship and may be referred to appropriate law enforcement authorities. Upon suspension or termination, your right to use the Resources we provide will immediately cease, and we reserve the right to remove or delete any information that you may have on file with us, including any account or login information.

### **Governing Law**

This Web Site is controlled by MobyMax. It can be accessed by most countries around the world. By accessing our Web Site, you agree that the statutes and laws of the state of Delaware, without regard to the conflict of laws and the United Nations Convention on the International Sales of Goods, will apply to all matters relating to the use of this Web Site and the purchase of any products or services through this site.

Furthermore, any action to enforce this User Agreement shall be brought in the federal or state courts. You hereby agree to personal jurisdiction by such courts, and waive any jurisdictional, venue, or inconvenient forum objections to such courts.

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EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, MOBYMAX: DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES AND CONDITIONS, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES AS TO NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; AND DOES NOT WARRANT THAT THE SERVICES, TOOLS OR WEB SITE OR ANY CONTENT THEREIN WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED. THE USE OF THE SERVICES, TOOLS AND WEB SITE IS AT YOUR OWN RISK, AND YOU ASSUME FULL RESPONSIBILITY AND RISK OF LOSS YOU MAY SUFFER AS A RESULT OF USING, OR ACCESSING THE SERVICES, TOOLS OR WEB SITE, OR DOWNLOADING ANY CONTENT THEREON, EXCEPT TO THE EXTENT THAT LIABILITY UNDER ANY APPLICABLE LAW OR REGULATION CANNOT BE EXCLUDED.

MOBYMAX IS NOT LIABLE FOR LOSS OR DAMAGE OF ANY KIND WHATSOEVER ARISING AS A RESULT OF INFORMATION PUBLISHED ON OR FURNISHED THROUGH THE SERVICES, TOOLS OR WEB SITE, OR ANY ERRORS OR OMISSIONS OF THE TOOLS OR WEB SITE; MOBYMAX SHALL HAVE NO LIABILITY ARISING FROM DECISIONS OR PURCHASES OF THIRD PARTY GOODS OR SERVICES BASED ON INFORMATION PUBLISHED ON OR FURNISHED THROUGH THE SERVICES, TOOLS OR WEB SITE; AND UNDER NO CIRCUMSTANCES SHALL MOBYMAX OR ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, VENDORS, SUPPLIERS OR DISTRIBUTORS BE LIABLE UNDER THIS AGREEMENT TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGES OR ANY OTHER SIMILAR DAMAGES UNDER ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY), THAT ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THE USE OF, OR THE INABILITY TO USE, THE SERVICES, TOOLS, WEB SITE, OR ANY CONTENT CONTAINED THEREON, EVEN IF MOBYMAX HAS BEEN INFORMED OF THE POSSIBILITY THEREOF. IF YOU ARE DISSATISFIED WITH ANY SERVICES, TOOLS, OR ANY PORTION OF THE WEB SITE, OR WITH ANY OF THESE TERMS OF USE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USE OF THE SERVICES, TOOLS AND WEB SITE.

*Updated September 21, 2016*

# What is your Privacy Policy?

Modified on: Tue, Jun 14, 2016 at 1:45 PM

## **Privacy Policy**

This Privacy Policy governs the manner in which MobyMax collects, uses, maintains and discloses personally identifiable information in records ("Student Records") collected from users ("User") of the [www.MobyMax.com](http://www.MobyMax.com) website ("Site"). This Privacy Policy applies to the Site and all the services offered by MobyMax on this Site.

## **FERPA**

We are committed to working with our Users to comply with laws, rules, and regulations governing the use and protection of Student Records, including the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, applicable state laws, and statutes governing Student Records we receive from Users. As such, MobyMax is committed to protecting the security, confidentiality, and integrity of Student Records that we receive from Users, as well as to protect against unauthorized access or anticipated threats.

## **Personal identification information**

We may collect personal identification information from Users in a variety of ways, including, but not limited to, when Users visit our Site, subscribe to email alerts, and in connection with other activities, services, features or resources we make available on our Site. Users may be asked for, as appropriate, name, email address, mailing address, phone number. Users may, however, visit our Site anonymously. We will collect personal identification information from Users only if they voluntarily submit such information to us. Users can always refuse to supply personal identification information, except that it may prevent them from engaging in certain Site-related activities. Users can correct any erroneous personal information by emailing [support@mobymax.com](mailto:support@mobymax.com) or calling (888)793-8331.

## **Non-personal identification information**

We may collect non-personal identification information about Users whenever they interact with our Site. Non-personal identification information may include the browser name, the type of computer and technical information about Users' means of connection to our Site, such as the operating system and the Internet service providers utilized and other similar information.

## **Web browser cookies**

Our Site may use "cookies" to enhance Users' experience. A User's web browser places cookies on their hard drive for record-keeping purposes and sometimes to track information about them. Users may choose to set their web browser to refuse cookies, or to alert them when cookies are being sent, but this may result in some parts of the Site not functioning properly.

## **How we use collected information**

MobyMax may collect and use Users' personal information for improving the User's experience or sending periodic emails. Students shall not receive email alerts containing any advertising or product information. We may use information in the aggregate to understand how our Users as a group use the services and resources provided on our Site and so that we may improve our Site. If the User decides to opt-in to our email alerts, they will receive emails that may include company news, updates, related product or service information, etc. If at any time the User would like to unsubscribe from receiving future emails, we include detailed unsubscribe instructions at the bottom of each email.

## **Property and control of student data**

All student records and data continue to be the property of and under the control of the local educational agency. Students are able to access, print, and otherwise retain any student-generated content by accessing it through various channels in their student accounts.

## **How we protect your information**

We adopt appropriate data collection, storage and processing practices and security measures to protect against unauthorized access, alteration, disclosure or destruction of your personal information, username, password, transaction information and data stored on our Site.

## **Sharing your personal information**

We do not sell, trade, or rent Users' personal identification information to others. We will not allow unrelated third parties to use your personal information for any reason without your consent. We may share generic aggregated demographic information not linked to any personal identification information regarding visitors and users with our business partners for the

purposes outlined above. We may disclose and share personal information with (1) our group companies or any entity which acquires any part of our business, (2) with our service providers (including, for example, suppliers who develop or host our sites), (3) with single sign-on providers that you use to access our software, (4) roster services that you use to update your student and teacher rosters, and (5) if required or permitted by law with other third parties with your consent.

**Procedure for unauthorized records disclosure**

In the event of a breach or unauthorized disclosure of student records that would be subject to disclosure under applicable federal or state law has occurred, MobyMax will take prompt and appropriate steps to mitigate further breach or release of student records, provide notice to the affected User promptly and without reasonable delay, and work with the affected User to provide information and assistance necessary to comply with any notification to parents, legal guardians, or students, as is required by applicable law.

**Contract termination/completion**

Following expiration or termination of the agreement under which the User purchased access to the MobyMax web-based products or services, and upon receipt of written request from the User, MobyMax will destroy or, if agreed, return to the User, the Student Records in its possession within a commercially reasonable period of time. For clarity, data generated by MobyMax or our products that is in aggregate, or that is anonymized (i.e., personally identifiable information has been removed) may be retained by MobyMax and used for product improvement purposes.

**Changes to this privacy policy**

We may update this Privacy Policy at any time. When we do, we will revise the updated date at the bottom of this page. If we change the policy in a material manner, for example, if we seek to use personal information in a materially different way than we had previously, we will provide at least 30 days' notice to you so that you have sufficient time to evaluate the change in practice. Of course, you can always opt out by deleting your account before the changes take effect.

**Your acceptance of these terms**

By using this Site, you signify your acceptance of this Privacy Policy. If you do not agree to this Privacy Policy, please do not use our Site. Your continued use of the Site following the posting of changes to this Privacy Policy will be deemed your acceptance of those changes.

**Contacting us**

If you have any questions about this Privacy Policy, the practices of this Site, or your dealings with this Site, please contact [support@mobymax.com](mailto:support@mobymax.com).

*Updated: 12/17/2015*

**Davis Joint Unified School District**

**MobyMax**

**Terms of Service**

## **Jurisdiction, Venue, & Interpretation**

The Terms of Service shall be governed by and construed in accordance with the laws of the State of California. Each party consents to personal jurisdiction and venue in Yolo County. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed. If a court of competent jurisdiction rules as invalid any provision of this agreement or the application of any provision to any person or circumstance, the parties agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and all other provisions shall remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to the Service, the use of the MobyMax website or iOS Apps, or the Terms of Service must be filed within one (1) year after such claim or cause of action arose or be forever barred.

Accepted as addendum to Terms and Conditions

By: 

Title: CEO

Date: 10/6/2016