

## DATA PROTECTION ADDENDUM

This Data Protection Addendum (“Addendum”) is dated 10/19/2023 and is between School District No. 1 in the City and County of Denver and State of Colorado, d/b/a Denver Public Schools (“District”) and Tools for Schools, Inc. (“Contractor”). This Addendum applies to all services provided by Contractor to District through the Contract, as defined herein. The Addendum and the Contract are collectively referred to hereinafter as “Agreement”. This Addendum is hereby incorporated into the Contract. To the extent any such addition, deletion or modification results in any conflict or inconsistency between the Contract and this Addendum, this Addendum shall govern and the terms of the Contract that conflict with this Addendum or are inconsistent with this Addendum shall be of no force or effect.

In consideration of the mutual covenants, promises, understandings, releases and payments described in the Contract and this Addendum, the parties agree to amend the Contract by adding the following language:

### 1. Definitions

1. “*Act*” means the Colorado Student Data Transparency and Security Act, C.R.S. § 22-16-101 et seq., as amended from time to time.
2. “*Biometric Record*,” as used in the definition of “Personally Identifiable Information,” means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints; retina and iris patterns; voiceprints; DNA sequence; facial characteristics; and handwriting.
3. “*Click-Wrap*” means both the act of accepting on-line terms and conditions of a Vendor Agreement without ink or paper, by clicking on an on-line button or link for that purpose, and the resulting agreement.
4. “*Contract*” means the contract, service order, purchase order, invoice, or any other form of agreement that may now or in the future exist between Contractor and District, specifically including Book Creator Terms of Service dated 10/19/2023.
5. “*Designated Representative*” means District or Contractor employees as specified on Schedule 1 to whom all notices required in this Addendum will be sent.

6. “*District Data*” means:
  - 6.1. Any and all PII, Record, and Education Records; and
  - 6.2. Any and all PII included therein or derived therefrom; and
  - 6.3. Health, medical, financial, contract, and employment information about students, employees, and contractors, and their respective families that is protected by various State and federal laws applicable to the Contract or the Addendum or both;
  - 6.4. All data and metadata about Data and PII that the Contractor collects, generates, or infers; and
  - 6.5. All data and metadata that students generate or infer by using the Services that collect the data; and
  - 6.6. Data and information that the District makes available directly or indirectly to the Contractor; and
  - 6.7. Data and information that the District DOES NOT also intentionally make or HAS NOT intentionally made generally available on public websites or publications.
7. “*De-identified Data*” means District Data from which all Personally Identifiable Information, as defined herein, and attributes about such data, have been permanently removed so that no individual identification can be made.
8. “*Education Records*” means records, files, documents and other materials that: (a) contain information directly related to a student; and (b) are maintained by the District, or by a party acting for the District such as Contractor.
9. “*End User*” means individuals authorized by the District to access and use the Services as defined herein.
10. “*Incident*” means an adverse event that may affect the confidentiality, integrity or availability of data, or an event that is a violation of security or privacy policies.
11. “*Mine*” means the act of searching through, analyzing, accessing, or extracting District Data, metadata, or information not necessary to accomplish the Services or purpose(s) of this Agreement for the benefit of the District.
12. “*Personally Identifiable Information*” or “*PII*” means information and metadata that, alone or in combination, personally identifies an individual student or the student’s parent or family, and that is collected, maintained, generated, or inferred by the District,

either directly or through the Services, or by Contractor. PII also includes other information that, alone or in combination, is linked or or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the District reasonably believes knows the identity of the student to whom the education record relates. Personally Identifiable Information includes, but is not limited to: (a) the student's name; (b) the name of the student's parent or other family members; (c) the address or phone number of the student or student's family; (d) personal identifiers such as the student's state-assigned student identifier, social security number, student number or biometric record; (e) indirect identifiers such as the student's date of birth, place of birth or mother's maiden name; and (f) demographic attributes, such as race, socioeconomic information, and gender.

To the extent it is not already included in the definition hereinabove, PII also includes: (a) "personal information" as defined in the Colorado Open Records Act, C.R.S. 24-72-101 et seq. ("CORA"); (b) Personally Identifiable Information contained in student "education records" as that term is defined in the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; (c) "protected health information" as that term is defined in the Health Insurance Portability and Accountability Act, 45 C.F.R. Part 160.103; (d) "nonpublic personal information" as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 U.S.C. 6809; (e) credit and debit card numbers and/or access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; and (f) other financial account numbers, access codes, and state- or federal-identification numbers such as driver's license, passport or visa numbers.

13. "*Record*" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

14. "*Securely Destroy*" means to remove District Data from Contractor's systems, paper files, records, databases, and any other media regardless of format, in accordance with the standard detailed in National Institute of Standards and Technology ("NIST") Special Publication 800-88 Guidelines for Media Sanitation (December 2014), or such other standard to which the District's Chief Privacy Officer or designee may agree in writing, so that District Data is permanently irretrievable in Contractor's and Subcontractors' normal course of business.

15. "*Security Breach*" means an incident where sensitive, protected, or confidential data is altered, copied, transmitted, viewed, stolen, or used by an unauthorized party, or released to an untrusted environment.

16. “*Services*” means what that term is defined in the Contract, and also includes any goods or services acquired by the District from the Contractor, including but not limited to computer software, mobile applications (apps), and web-based tools accessed by End Users through the Internet, installed or run on a computer or electronic device.

17. “*Subcontractor*” means Contractor’s subcontractors, agents, or any other third party identified on Schedule 2, as updated by Contractor from time to time in accordance with the requirements of this Addendum, who Contractor has engaged to enable Contractor to perform its obligations under the Contract.

18. “*Student Profile*” means a collection of PII data elements relating to a student of the District.

19. “*Targeted Advertising*” means selecting and sending advertisements to individuals based on information obtained or inferred over time from the individual’s online behavior, use of applications, or PII; but if the Contractor is also a School Service Contract Provider or otherwise subject to compliance with the Act , then the Act definition of that term, if different from this definition, governs.

20. “*Vendor Agreement*” means any form of agreement or documentation provided by the Contractor, including without limitation, an on-line agreement, proposal, or invoice, whether made a part of the Agreement or effective or purporting to be effective outside of the Agreement.

## **2. Rights and License in and to District Data**

District owns all rights, title, and interest in and to District Data and any and all now known or hereafter existing intellectual property rights associated therewith, and any derivative works thereof or modifications thereto, including without limitation, De-identified Data. The District hereby grants to Contractor a limited, nonexclusive license to use District Data solely for the purpose of performing its obligations specified in the Contract. This Addendum does not give Contractor any rights, title, or interest, including all intellectual property and proprietary rights, implied or otherwise, to District Data or De-identified Data.

## **3. Data Privacy**

3.1 Use of District Data. Contractor shall use District Data only for the purpose of performing the Services and fulfilling its duties under the Contract.

3.2 Prohibited Uses of District Data. With the exception of De-identified Data that the District has agreed in writing to allow Contractor to use as specified in Section 3.5, Contractor shall not:

3.2.1 Use, sell, rent, transfer, distribute, alter, Mine, or disclose District Data (including metadata) to any third party without the prior written consent of the District, except as required by law;

3.2.2 Use District Data for its own commercial benefit, including but not limited to, Targeted Advertising or any advertising, marketing, or surveying of any kind directed toward children, parents, guardians, or District employees, unless such use is specifically authorized by this Addendum or otherwise authorized in writing by the District;

3.2.3 Use District Data in a manner that is inconsistent with Contractor's privacy policy;

3.2.4 Use District Data to create a Student Profile other than as authorized or required by the Contract to perform the Services; and

3.2.5 Store District Data outside the continental United States unless Contractor has given the District Designated Representative advance written notice of where and how the servers are housed, managed, and secured, and that the security standards required herein can be achieved.

3.3 Qualified FERPA Exception. If Contractor will have access to Education Records, Contractor acknowledges that, for the purposes of this Agreement, pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and its implementing regulations, 34 C.F.R. Part 99 ("FERPA"), it will be designated as a "school official" with "legitimate educational interests" in the District Education Records and PII disclosed pursuant to the Contract, and Contractor agrees to abide by the FERPA limitations and requirements imposed on school officials. Contractor will use the Education Records only for the purpose of fulfilling its duties under the Contract for District's and its End Users' benefit and shall not share District Data with or disclose it to any third party except as provided for in the Agreement, as required by law, or if authorized in writing by the District. Contractor warrants and represents that during the five-year period preceding the Effective Date of this Addendum, it has not been found in violation of FERPA by the U.S. Department of Education's Family Policy Compliance Office.

3.4 Subcontractor Use of District Data. To the extent necessary to perform its obligations specified in the Contract, Contractor may disclose District Data to Subcontractors pursuant to a written agreement, specifying the purpose of the disclosure and providing that: (a) Subcontractor shall not disclose District Data, in whole or in part, to any other party; (b) Subcontractor shall not use any District Data to advertise or market to students or their parents/guardians; (c) Subcontractor shall access, view, collect, generate and use District Data only to the extent necessary to assist Contractor in performing its obligations specified in the Contract; (d) at the conclusion of its/their work under its/their subcontract(s) Subcontractor shall, as directed by the District through Contractor, Securely Destroy all District Data in its/their possession, custody or control, or return such District Data to the District, at the election of the District; (e)

Subcontractor shall indemnify the District in accordance with the terms set forth in Section 10 of this Addendum; and (f) Subcontractor shall utilize appropriate administrative, physical and technical safeguards in accordance with industry standards and best practices to secure District Data from unauthorized disclosure, access and use. Contractor shall ensure that its employees and Subcontractors who have potential access to District Data have undergone appropriate background screening, to the District's satisfaction, and possess all needed qualifications to comply with the terms of this Addendum. Contractor shall also ensure that its Subcontractors comply with the insurance requirements specified in Section 11 of this Addendum.

3.5 Use of De-identified Data. Contractor may use De-identified Data for purposes of research, the improvement of Contractor's products and services, and/or the development of new products and services. In no event shall Contractor or Subcontractors re-identify or attempt to re-identify any De-identified Data or use De-identified Data in combination with other data elements or De-identified Data in the possession of a third-party affiliate, thereby posing risks of re-identification.

3.6 Privacy Policy Changes. As required by § 22-16-108(2) of the Act, prior to making a material change to Contractor's privacy policies, Contractor shall send District's Designated Representative written notice, which includes a clear explanation of the proposed changes.

3.7 Misuse/Unauthorized Release. Upon discovering the misuse or unauthorized release of Personally Identifiable Information held in connection with this Addendum by Contractor, a Subcontractor or a subsequent Subcontractor of Contractor, Contractor will notify the District as soon as possible, regardless of whether the misuse or unauthorized release is a result of a material breach of the terms of this Addendum.

#### **4. Data Security**

4.1 Security Safeguards. Contractor shall maintain a comprehensive security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of District Data. Contractor shall store and process District Data in accordance with industry standards and best practices, including implementing appropriate administrative, physical, and technical safeguards that are no less rigorous than those outlined in [CIS Critical Security Controls \(CIS Controls\)](#), as amended, to secure such data from unauthorized access, disclosure, alteration, and use. Contractor shall ensure that all such safeguards, including the manner in which District Data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with all applicable federal and state data protection and privacy laws, regulations and directives, including without limitation the Act, as well as the terms and conditions of this Addendum. Without limiting the foregoing, and unless expressly agreed to the contrary in writing, Contractor warrants that all electronic District Data will be encrypted in transmission and at rest in accordance with NIST Special Publication 800-57, as amended, or such other standard as the District's Chief Privacy Officer or designee may agree to in writing. Contractor

shall also encrypt any backup, backup media, removable media, tape, or other copies. In addition, Contractor shall fully encrypt disks and storage for all laptops and mobile devices.

4.2 Risk Assessments. Contractor shall conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

4.3 Audit Trails. Contractor shall take reasonable measures, including without limitation audit trails, to protect District Data against deterioration or degradation of data quality and authenticity, and to ensure data is deidentified in accordance with this Addendum.

4.4 Verification of Safeguards. Upon District's written request, Contractor shall provide or make available to the District for review, one or more of the following, verifying Contractor's administrative, physical and technical safeguards are in compliance with industry standards and best practices: (1) a third-party network security audit report; (2) certification from Contractor indicating that an independent vulnerability or risk assessment of the Contractor's data security program has occurred; (3) District Data has been deidentified by Contractor as set forth in the definition of Deidentified Data in section 1.7 of this Addendum.

4.5 Background Checks.

4.5.1 If Contractor has access to District Data, but does not provide direct services to students, the Contractor and every person, including any subcontractor or agent of the Contractor, shall be required to have a criminal background check per Contractor's internal employment policies. "Direct services to students" includes, but is not limited to: instruction; physical, mental, and social health supports; transportation; and food services, which are provided to students at least one time per month during the school year.

4.5.2 If Contractor provides direct services to students and has access to student data, the Contractor and every person, including any subcontractor or agent of the Contractor, shall be required to have a criminal background check that meets the requirements of § 22-32-109.7, C.R.S. and other District requirements, including a fingerprint-based conviction investigation. Conducting a Colorado Bureau of Investigation criminal history check or a Name Check investigation for any person providing services under this Contract does not meet District requirements. The costs associated with the background checks are solely the Contractor's responsibility. Thereafter, any personnel, subcontractor, volunteer or agent hired or added during the term of this Contract shall satisfy the requirements set forth in this Section before performing services on Contractor's behalf. The Contractor shall make the background check results available upon request of the District in compliance with the provisions of § 24-72-305.3, C.R.S. The District also reserves the right to conduct its own criminal background check of every person before Services begin.

4.5.3 Notwithstanding the criminal background check requirement as set forth above, Contractor hereby certifies that no employee, subcontractor, volunteer or agent of the

Contractor performing the Services has been convicted in Colorado or in any other State of a criminal offense involving: (i) the abuse, abduction, sexual molestation, physical or sexual assault on, or rape of a minor; or (ii) any crime involving exploitation of minors, including but not limited to, child pornography offenses or any crime of violence. Contractor shall notify the District immediately upon the discovery or receipt of any information that any person performing services on Contractor's behalf has been detained or arrested by a law enforcement agency of the aforementioned crimes. Contractor understands that allowing any employee, subcontractor, volunteer or agent of the Contractor performing the Services who has been arrested or convicted of the aforementioned crimes to: (i) provide direct services to students, (ii) access student data, or (iii) enter onto District property, constitutes a material breach of this Contract and may result in the immediate termination of this Contract and referral to law enforcement for possible criminal charges, or additional civil sanctions pursuant to federal and state law. Misdemeanor conviction(s) may not necessarily result in the immediate termination of this Contract. Misdemeanor convictions are evaluated on a case-by-case basis, considering the nature and gravity of the offense, time elapsed since the offense, conviction, or time served, and the nature of the Services. Upon the District's request, Contractor shall provide documentation of every person performing the Services to substantiate the basis for this certification.

4.5.4 The Contractor and every person, including any subcontractor or agent of the Contractor, performing the Services, or who is on District's property, may be scanned through the Visitor Management System. If an individual's identity cannot be verified through an acceptable form of identification (driver's license or state ID), they will not be allowed on District's property.

## **5. Security Incident and Security Breach**

5.1 Security Incident Evaluation. In the event of an Incident, Contractor shall follow industry best practices to fully investigate and resolve the Incident, and take steps to prevent developments that may result in the Incident becoming a Security Breach at Contractor's expense in accordance with applicable privacy laws.

5.2 Response. Immediately upon becoming aware of a Security Breach, or a complaint of a Security Breach, Contractor shall notify the District Designated Representative in writing as set forth herein, fully investigate the Security Breach, cooperate fully with the District's investigation of and response to the Security Breach, and use best efforts to prevent any further Security Breach at Contractor's expense in accordance with applicable privacy laws. Except as otherwise required by law, Contractor shall not provide notice of the Security Breach directly to individuals whose Personally Identifiable Information was involved, to regulatory agencies, or to other entities, without first providing written notice to the District's Designated Representative.

5.3 Security Breach Report. If the District reasonably determines that Contractor has committed a Security Breach, then the District may request Contractor to submit, within seven



(7) calendar days from discovery of such breach, a written report, and any supporting documentation, identifying (i) the nature of the Security Breach, (ii) the steps Contractor has executed to investigate the Security Breach, (iii) what District Data or PII was used or disclosed, (iv) who or what was the cause of the Security Breach, (v) what Contractor has done or shall do to remediate any deleterious effect of the Security Breach, and (vi) what corrective action Contractor has taken or shall take to prevent a future Incident or Security Breach. The District reserves the right to require Contractor to amend its remediation plans.

5.4 Effect of Security Breach. Upon the occurrence of a Security Breach, the District may terminate this Agreement in accordance with District policies. The District may require Contractor to suspend all Services, pending the investigation and successful resolution of any Security Breach, and Contractor may be required to reimburse District all amounts paid for any period during which Services were not rendered. Contractor acknowledges that, as a result of a Security Breach, the District may also elect to disqualify Contractor and any of its Subcontractors from future contracts with the District.

5.5 Liability for Security Breach. In addition to any other remedies available to the District under law, contract, or equity, Contractor shall reimburse the District in full for all costs, including but not limited to, payment of legal fees, audit costs, fines, and other fees imposed that were actually incurred by the District and caused in whole or in part by Contractor or by Contractor's Subcontractors for any Security Breach. If required by law or contract, Contractor shall provide notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities. Contractor shall provide one year's credit monitoring to the affected individuals if the Personally Identifiable Information exposed during any Security Breach could be used to commit financial identity theft.

## **6. Response to Legal Orders, Demands or Requests for Data**

6.1 Received by Contractor. Except as otherwise expressly prohibited by law, Contractor shall immediately notify the District of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking District Data; consult with the District regarding its response; cooperate with the District's reasonable requests in connection with efforts by the District to intervene and quash or modify the legal order, demand or request; and, upon the District's request, provide the District with a copy of its response.

6.2 Received by District. If the District receives a subpoena, warrant, or other legal order, demand or request seeking District Data maintained by Contractor, including but not limited to, a request pursuant to the CORA, the District will promptly notify Contractor and, within two (2) business days, excluding national holidays, Contractor shall supply the District with copies of the District Data for the District to respond.

6.3 Parent Request. If a parent, legal guardian or student contacts the District with a request to review or correct District Data or PII, pursuant to FERPA or the Act, the District will

promptly notify Contractor's Designated Representative and Contractor shall use reasonable and good faith efforts to assist the District in fulfilling such requests, as directed by the District, within ten calendar (10) days after receipt of District's notice. Conversely, if a parent, legal guardian or student contacts the Contractor with a request to review or correct District Data or PII, within ten calendar (10) days after receipt of such notice, Contractor shall promptly notify the District and shall use reasonable and good faith efforts to assist the District in fulfilling such requests, as directed by the District.

6.4 Access to District Data. District shall have the right to access and retrieve any or all District Data stored by or in possession of Contractor upon written notice to Contractor's Designated Representative. Contractor shall make the District Data available to the District within seven (7) calendar days from the date of request.

## **7. Compliance with Applicable Law**

7.1. School Service Contract Providers. If Contractor provides a "school service", which is defined as an Internet website, online service, online application or mobile application that: (a) is designed and marketed primarily for use in a preschool, elementary school or secondary school; (b) is used at the direction of District teachers or other District employees; and (c) collects, maintains or uses District Data or PII, then Contractor is a "school service contract provider" under the Act. If that is the case, Contractor must complete Schedule 5. Contractor shall update Schedule 5 as necessary to maintain accuracy. District reserves the right to terminate the Contract, or the DPA, or both, as specified in Section 8, should the District receive information after the Effective Date that significantly modifies Contractor's representations made in this Section 7.1.

7.2 Children's Online Privacy and Protection Act. If Contractor collects personal information (as defined in the Children's Online Privacy and Protection Act of 1998, 5 U.S.C. 6501 to 6505, and its implementing regulations ("COPPA")) from children under thirteen (13) years of age in performing the Services, Contractor warrants, represents, and covenants that such collection is and shall be for the use and benefit of the District and for no other commercial purpose. Contractor has provided District with written notice of its collection, use, and disclosure practices.

7.3 Compliance with Laws. Contractor warrants that it will abide by all applicable laws, ordinances, rules, regulations, and orders of all governmental agencies or authorities having jurisdiction over the Services including but not limited to: (a) COPPA; (b) FERPA; (c) the Health Insurance Portability and Accountability Act, 45 C.F.R. Part 160.103; (d) the Health Information Technology for Economic and Clinical Health Act, (e) Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 U.S.C. 6809; (f) Payment Card Industry Data Security Standards; (g) Protection of Pupil Rights Amendment, 20 U.S.C. 1232h, 34 C.F.R. Part 98; and (h) Americans with Disabilities Act, and Federal Export Administration Regulations.

7.4 Americans with Disabilities Act. To the extent the District is required to provide accommodations in compliance with the Americans with Disability Act (“ADA”), Contractor will require that its system and services will, at a minimum, conform with all laws, regulations and guidance that apply to accessibility in accordance with the ADA, Section 504 of the Rehabilitation Act of 1973, and the Web Content Accessibility Guidelines (WCAG) 2.0 Level AA guidelines; provided, however, Contractor will have no obligations with respect to such compliance as it relates to any portion of the system and services provided or developed by the District including District content.

## **8. Termination of the Contract**

8.1 The District may immediately terminate the Contract in accordance with District policies if, at any time, the District determines in its sole discretion, that Contractor has breached any of the requirements of this Addendum. Should Contractor not comply with the requirements of this Addendum and that non-compliance results in the misuse or unauthorized release of PII by the Contractor, the District may terminate the Contract immediately as provided under this Addendum and in accordance with C.R.S. Section 22-16-107 (2)(a).

8.2 The District may terminate the Contract if the District receives information after execution of this Addendum, that any of Contractor’s representations or warranties have substantially changed after execution of this Addendum, including but not limited to the terms of Contractor’s privacy policy.

## **9. Data Transfer Upon Termination or Expiration**

9.1 Destruction or Return of District Data. With the exception of De-identified Data that District has specifically agreed in writing to allow Contractor to use after termination or expiration of this Addendum, or District Data for which Contractor has specifically obtained consent from the parent, legal guardian or student to keep, no later than (30) calendar days after termination or expiration of this Addendum, Contractor shall certify in writing that all District Data and PII that Contractor collected, generated or inferred pursuant to the Contract (“Contract Data”), is securely returned or Securely Destroyed, pursuant to Schedule 4 attached hereto.

9.2 Transfer and Destruction of District Data. If the District elects to have all District Data or Contract Data that is in Contractor’s possession or in the possession of Contractor’s Subcontractors transferred to a third party designated by the District, such transfer shall occur within a reasonable period of time but no later than thirty (30) calendar days after expiration or termination of this Agreement, and without significant interruption in service or access to such District Data. Contractor shall work closely with such third party transferee to ensure that such transfer/migration uses facilities and methods compatible with the relevant systems of the District or its transferee, and to the extent technologically feasible, that the District will have reasonable access to District Data during the transition. District will pay all costs associated with such transfer, unless such transfer is as the result of termination of this Agreement following

Contractor's breach of the terms of this Agreement. Upon successful transfer of District Data, as confirmed in writing by the District's Designated Representative, Contractor shall Securely Destroy all District Data in accordance with Section 9.1.

9.3 Response to Specific Data Destruction or Return Requests. After receiving a written request from the District, Contractor shall Securely Destroy or return any specific District Data or Contract Data that is in its possession or in the possession of its Subcontractors within five (5) business days, excluding national holidays, after receiving a written request from the District.

## **10. Indemnification**

10.1 If Contractor is a "public entity" then it will be responsible for the negligent acts and omissions of its officers, agents, employees and representatives with respect to its obligations under this Agreement. Any provision of this Agreement, whether or not incorporated herein by reference, shall be controlled, limited and otherwise modified so as to limit any liability of the Contractor under the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq. It is specifically understood and agreed that nothing contained in this paragraph or elsewhere in this Agreement shall be construed as an express or implied waiver of its governmental immunity or as an express or implied acceptance of liabilities arising as a result of actions which lie in tort or could lie in tort in excess of the liabilities allowable under the Act, as a pledge of the full faith and credit of the Partner, or as the assumption by the Partner of a debt, contract or liability of the District or its affiliates in violation of Article XI, Section 1 of the Constitution of the State of Colorado.

10.2 If Contractor is not a "public entity" then Contractor shall indemnify, defend and hold District and its elected officials, employees, representatives, and agents harmless, without limitation, from and against any and all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses, including attorneys' fees, the costs of enforcing any right to indemnification hereunder, and the cost of pursuing any insurance providers, arising out of or resulting from Contractor's, or Contractor's subcontractors, performance of services under this Addendum, any third-party claim against any Indemnified party to the extent arising out of or resulting from Contractor's, or Contractor's subcontractors, failure to comply with any of its obligations under Sections 3, 4, 5, and 9 of this Addendum, and any breach of Contractor's, or Contractor's subcontractors, obligations under this Addendum. These indemnification duties shall survive termination or expiration of this Agreement.

## **11. Insurance**

11.1 Coverage. As required by [Schedule 6](#).

## **12. EULAs, Terms of Use, and other License Agreements**

12.1 The Contractor grants such licenses and user permissions and provides the Services under those conditions as set forth in Schedule 7 attached hereto.

12.2 Click-Wrap and Exclusions. If Schedule 7 is blank or not attached, the Contractor grants such licenses and user permissions as the District may accept by Click-Wrap, whether with the Contractor or provided through a Subcontractor. Notwithstanding any such Click-Wrap terms and conditions, and notwithstanding the provisions in the Agreement or Vendor Agreement, the District DOES NOT agree to any of the following:

12.2.1 Jurisdiction, venue and governing law other than Colorado.

12.2.2 Indemnification by the District of any person.

12.2.3 Binding arbitration or any other binding extra-judicial dispute resolution process.

12.2.4 Limitation of Contractor's liability for (i) direct damages; (ii) bodily injury, death or damage to tangible property or (iii) amounts that are less than the insurance coverage the Contractor provides.

12.2.5 Ownership or use of District Data other than as described in this Addendum.

12.2.6 Confidentiality provisions in conflict with the District's obligations under the Colorado Open Records Act and other applicable open records laws.

12.2.7 Fees, penalties, and payment obligations other than as agreed to in the Agreement.

12.3 End Users. In the event that the Contractor enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with End Users or with the District ("EULAs"), the parties agree that the terms of this Addendum shall superseded the EULAs.

12.4 Subcontractor Click-Wrap. If the Contractor is providing software or on-line services through Subcontractors, and Click-Wrap will be required for the District to avail itself of the Services under this Agreement, then the Contractor shall cause the Subcontractor providing such software or on-line access to consent to and honor the terms of this Addendum with respect to the District's use of the Services provided through the Subcontractor.

### **13. Miscellaneous**

13.1 Public Inspection of Agreement. Contractor acknowledges and agrees that this Agreement and all documents Contractor provides District as required herein, are public records for purposes of the CORA and shall at all times be subject to public inspection. The parties understand that in the event of a request for disclosure of such information, the District will notify Contractor to give Contractor the opportunity to redact its proprietary or confidential material. In the event of the filing of a lawsuit to compel disclosure, the District will tender Contractor's material to the court for judicial determination of the issue of disclosure and

Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure or waive the same.

13.2 Survival. The Contractor's obligations under this Addendum, shall survive termination of this Agreement for any reason until all District Data has been returned or Securely Destroyed.

13.3 Choice of Law. Any claim, controversy or dispute arising under or related to this Addendum shall be construed pursuant to the substantive, not conflicts, laws of the State of Colorado. Each of the parties submits to the exclusive jurisdiction of any state court sitting in or federal court with jurisdiction over Denver County, Colorado, in any action or proceeding arising out of or relating to this Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each party also agrees not to bring any action or proceeding arising out of or relating to this Addendum in any other court. Each of the parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect to any such action or proceeding.

13.4 Immunities. The District retains all of its rights, privileges and immunities under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.*

13.5 No Assignment. Contractor shall not assign or subcontract any of its rights or obligations hereunder without the express written consent of the District. Any assignment in violation of this section shall be void.

13.6 No Third Party Beneficiaries. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than District.

13.7 Schedules. The following schedules are attached hereto, or shall be attached hereto, and are specifically made a part hereof by this reference:

Schedule 1 – Designated Representatives

Schedule 2 – Subcontractors

Schedule 3 – Written Consent to Maintain De-identified Data

Schedule 4 – Certification of Destruction\Return of District Data

Schedule 5 – Data Elements

Schedule 6 – Insurance

Schedule 7 – EULAs and Terms of Use

13.8 Counterparts. This Addendum may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13.9 Electronic Signatures and Electronic Records. Each party consents to the use of electronic signatures by the other party. This Addendum, and any other documents requiring a signature under this Addendum, may be signed electronically by each party in the manner specified by the District. The parties agree not to deny the legal effect or enforceability of this Addendum solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Addendum in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

The parties are signing this Addendum on the date stated in the introductory clause.

By: **CONTRACTOR**



BY:

Thom Leggett  
VP Engineering  
Date: 10/20/2023

**“SCHOOL DISTRICT NO. 1”**

**APPROVED:**



By : \_\_\_\_\_

Staci Crum  
Director, Financial Operations

**SCHEDULE 1**  
**Designated Representatives**

| DISTRICT REPRESENTATIVE  | CONTRACTOR REPRESENTATIVE  |
|--|--|
| <p><b>Name:</b><br/>Jennifer Collins</p> <p><b>Title:</b><br/>Chief Privacy Officer, Deputy General Counsel</p> <p><b>Address:</b><br/>1860 Lincoln St<br/>Denver, CO 80203</p> <p><b>Phone:</b><br/>720-423-2211</p> <p><b>E-mail:</b><br/><a href="mailto:legal_contracts@dpsk12.org">legal_contracts@dpsk12.org</a></p> | <p><b>Name:</b><br/>Thom Leggett</p> <p><b>Title:</b><br/>VP Engineering</p> <p><b>Address:</b><br/>1321 Upland Dr., Suite 8524<br/>Houston, TX 77043</p> <p><b>Phone:</b><br/>(425) 331-9052</p> <p><b>E-mail:</b><br/>thom@bookcreator.com</p> |





**SCHEDULE 2**  
**Subcontractors**

*Contractor shall update this information as necessary to maintain accuracy and shall send revised attachments, exhibits or schedules to the District's Authorized Representative.*

**What third party vendors does Contractor do business with that may have access to student personally identifiable data, and what is the purpose of these third party vendors (please fill complete the table below with this information)?**

| <b>Name of Subcontractor</b> | <b>Primary Contact</b> | <b>Subcontractor's Address</b>                                   | <b>Subcontractor's Phone/email</b>                                     | <b>Purpose of re-disclosure to</b> |
|------------------------------|------------------------|--|--|------------------------------------|
| Google Cloud                 | n/a                    | Google LLC<br>1600<br>Amphitheatre<br>Parkway,<br>Mountain View, | <a href="mailto:legal-notices@google.com">legal-notices@google.com</a> | Cloud Hosting                      |
|                              |                        |  |  |                                    |
|                              |                        |  |  |                                    |
|                              |                        |  |  |                                    |

**SCHEDULE 3**

**Written Consent to Maintain De-identified Data**

The District hereby gives its consent for Contractor to retain and use for the stated purpose and period, De-identified Data elements as set forth below:

| Description of De-identified Data Elements | Purpose for Retention and Use | Period of Use |
|--|-------------------------------|---------------|
| None                                       |                               |               |
|  |                               |               |
|  |                               |               |
|  |                               |               |

I/We, Thom Leggett, as [title] VP Engineering and the authorized representative(s) of the Contractor do hereby certify that no attempt will be made to re-identify De-identified Data.

Contractor Name: Tools for Schools, Inc.

Contractor Representative Name: Thom Leggett

Title: VP Engineering

Signature: T.W. Leggett Date: 11/2/2023

**SCHEDULE 4**

**Certification of Destruction\Return of District Data**

I/We, [NAME(S)], as the authorized representative(s) of the Contractor do hereby acknowledge and certify under penalty of perjury that [initial next to both subparts of the applicable Part A or Part B]:

**Part A - Destruction:**

\_\_\_\_\_ the District Data and PII provided to Contractor by the District as part of the Data Protection Addendum in accordance with federal and state law was destroyed on \_\_\_\_\_, 20\_\_\_\_ by means of [describe destruction methods]: \_\_\_\_\_

\_\_\_\_\_ the District Data and PII provided to Contractor's Subcontractors as part of the Data Protection Addendum in accordance with federal and state law was destroyed as set forth below:

| <i>Name of Subcontractor</i> | <i>Date of Deletion</i> | <i>Destruction Method</i> |
|------------------------------|-------------------------|---------------------------|
|                              |                         |                           |
|                              |                         |                           |
|                              |                         |                           |

**Part B - Return: [If this option is elected by the District, then Contractor shall also complete Part A.]**

\_\_\_\_\_ the District Data and PII provided to Contractor by the District as part of the Data Protection Addendum in accordance with federal and state law was returned or transferred to the District's Authorized Representative or other person or entity designated by the District, on \_\_\_\_\_, 20\_\_ to \_\_\_\_\_, by means of [describe destruction methods]: \_\_\_\_\_

\_\_\_\_\_ the District Data and PII provided to Contractor's Subcontractors as part of the Data Protection Addendum in accordance with federal and state law was returned or transferred to the District's Authorized Representative or other person or entity designated by the District as set forth below:

| <i>Name of Subcontractor</i> | <i>Date of Return</i> | <i>Return / Transfer Method</i> |
|------------------------------|-----------------------|---------------------------------|
|                              |                       |                                 |
|                              |                       |                                 |
|                              |                       |                                 |

Contractor Name: \_\_\_\_\_

Contractor Representative Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**SCHEDULE 5**  
**Data Elements**

*(Mandatory to be completed if Contractor is a School Service Contract Provider under CRS  
22-16-101 et seq.)*

1. **Contractor collects, generates or uses pursuant to the Agreement the following data elements of District Data or PII:**

Name, Email Address, User Generated Content

2. **Contractor collects and uses the District Data for the following educational purposes:**

Creation and publication of eBooks.

3. **Contractor's policies regarding retention and disposal of District Data are as follows:**

Data disposed within 30 days of written request. Certification available on request.

4. **Contractor uses, shares or discloses the District Data in the following manner:**

Used to provide Book Creator – online creation and publication of eBooks.

5. **Has Contractor's agreement has ever been terminated by another school district for failure to comply with the same or substantially similar security obligations as those set forth in this Agreement?**

Yes    No.

If yes, describe:

## **SCHEDULE 6**

### **Insurance**

With the exception of Excess/Umbrella Liability, requirements for this being waived, contractor agrees to secure, at or before the time of execution of this Agreement, the insurance referred to below, covering all operations, goods or services provided pursuant to this Agreement.

**SCHEDULE 6**  
**Insurance**



**General Provisions**

Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement.

Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverage.

Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof.

**Insurer Ratings:** The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as “A-“ VIII or better.

**Cancellation, Non-Renewal Notifications:** Each policy shall contain a valid provision or endorsement requiring notification to the District in the event any of the required policies are to be cancelled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-

renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Contractor shall provide written notice of cancellation, non-renewal or reduction in limits to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s).

**Deductibles or Self-Insured Retentions:** If any policy is in excess of a deductible or self-insured retention, the Contractor must notify the District. Contractor shall be responsible for the payment of any deductible or self-insured retention.

**Minimum Requirements:** The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

Contractor shall advise the District in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At its own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limits, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

**Proof of Insurance:** Contractor certifies that any certificate of insurance, (preferably an ACORD certificate), provided as evidence of insurance coverage under this Agreement, complies with all insurance requirements in this Agreement. The District's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor's breach of this Agreement or of any of the District's rights or remedies under this Agreement. The District's Risk Management Department may require additional proof of insurance including but not limited to policies and endorsements.

**Subcontractors and Subconsultants:** All Subcontractors and Subconsultants (including Independent Contractors, Suppliers or other



entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Contractor. Contractor shall include all such Subcontractors as Additional Insureds under its policies (with the exception of Workers' Compensation) or shall ensure that all such Subcontractors and Subconsultants maintain the required coverages.

### **Insurance Coverage and Limits**

**Workers' Compensation/Employer's Liability:** Contractor shall maintain the coverage as required by statute and shall maintain Employer's Liability insurance with limits of at least \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

Contractor expressly represents to the District, as a material representation upon which the District is relying on entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation insurance shall affect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes this Agreement.

**Business Automobile Liability:** Contractor shall maintain Business Automobile Liability coverage with limits of at least \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

**Commercial General Liability:** Contractor shall maintain Commercial General Liability coverage with limits of at least \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

**Excess/Umbrella Liability:** Contractor shall maintain Excess or Umbrella Liability coverage with limits of at least \$1,000,000 per occurrence and \$1,000,000 policy aggregate. Coverage must be written on a "follow form" or broader basis.

**The following three types of required insurance coverages may be met with separate policies or a combination of these coverages under one policy. If in a combined policy, the combined policy form shall include minimum limits of at least \$3,000,000 each occurrence and in the aggregate.**

**Technology Errors & Omissions:** Contractor shall maintain Technology Errors and Omissions Liability coverage including, but not limited, to Network Security, Privacy Liability and Product Failure coverage with limits of at least \$1,000,000 per occurrence and \$1,000,000 policy aggregate.

**Media Professional Liability:** Contractor shall maintain Media Professional Liability limits of at least \$1,000,000 per claim and \$1,000,000 in the aggregate. The policy shall include, but not be limited to, coverage for libel, slander, infringement of copyright, invasion of the right of privacy, and unauthorized use of titles, formats, ideas, characters, plots or other material used in the publication or design.

**Cyber/Network Security & Privacy Liability:** Contractor shall maintain Cyber/Network Security & Privacy Liability coverage with limits of at least \$1,000,000 per occurrence and \$1,000,000 policy aggregate including, but not limited to, coverage for claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security.

### **Other Insurance Provisions**

**Additional Insured Status:** For Commercial General Liability, Auto Liability, Excess/Umbrella Liability, Cyber/Network Security and Privacy Liability (if applicable), Contractor and Subcontractor's insurer(s) shall name School District No. 1 in the City and County of Denver, d/b/a Denver Public Schools, and its elected officials, employees, representatives and agents as Additional Insureds.

**Waiver of Subrogation:** For coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the District.

**Primary Coverage:** For claims related to this Agreement, Contractor's insurance coverage shall be primary and non-contributory with other coverage or self-insurance maintained by the District.

**Claims Made Policies:** For claims-made coverage, the retroactive date must be on or before the contract date or the first date when any goods or services were provided to the District, whichever is earlier.

**Additional Provisions:** Defense costs must be outside the limits of liability. Policies must contain a severability of interests or separation of insureds provision (no insured versus insured exclusion). The Commercial General Liability coverage must provide that this is an Insured Contract under the policy.

## SCHEDULE 7

# Terms of Service

-

## 1. Information about us and these terms

**1.1 Who we are.** We are Book Creator, which is a trading name of Tools for Schools Limited, a company registered in England and Wales. Our company registration number is 08422231 and our address is 31 - 34 High Street, Bristol, BS1 2AW, United Kingdom.

**1.2 What these terms cover.** These are the terms and conditions on which we supply 'Book Creator' (which we refer to as Book Creator throughout these terms) to you.

**1.3 Why you should read them.** Please read these terms carefully before you use Book Creator. These terms tell you who we are, how we will provide Book Creator to you, how both you and we may change or end the contract between us, what to do if there is a problem with Book Creator and other important information. If you think that there is a mistake in these terms please contact us to discuss.

**1.4 Your privacy.** We only use any personal data that we collect through your use of Book Creator in the ways set out in our Privacy Policy.

**1.5 Apple's terms.** If you download Book Creator from Apple's App Store please be aware that Apple's rules, terms and policies for the App Store will also apply. If there are differences between these terms and Apple's rules, terms or policies then Apple's terms, rules or policies will apply instead of these terms.

**1.6 How to contact us.** You can contact us by emailing us at [info@bookcreator.com](mailto:info@bookcreator.com) or by post to our postal address, which is Tools for Schools Limited, 31 - 34 High Street, Bristol BS1 2AW, United Kingdom.

**1.7 How we may contact you.** If we have to contact you we will do so by writing to you at the email address you provide to us for that purpose.

**1.8 "Writing" includes emails.** When we use the words "writing" or "written" in these terms this includes emails.

## 2. Creating an account and different types of account

2.1 Book Creator can be used by anyone. Everyone is welcome to use Book Creator and create books using our app or through our website. Please make sure you read and adhere to these terms when using Book Creator.

2.2 Creating an account. Before you start using any online features of Book Creator you will need to create an account either through our website or by using your existing Google or Office 365 account.

2.3 Specific terms for teachers or schools and students. If you are a teacher or school, or student one of the paragraphs of this clause 2 set out below will apply specifically to you.

### 2.4 Teachers and schools

Book Creator can be used by teachers, schools and other educational establishments as follows:

2.4.1 to create an account that can be accessed using a password to be known only to you;

2.4.2 to allow students to access the account using an access code generated by us and passed on to students by you where you have obtained consent from the parent(s) or legal guardians of those students to their child using Book Creator with you; and

2.4.4 you agree that you will protect access to your account and access to it by keeping your password and access codes secure and not known to or visible by anyone else; and

2.4.5 you agree that you will adhere to our Privacy Policy when using Book Creator.

## 2.5 Students

Book Creator can be used by students as follows:

2.5.1 to create an account of your own that can be accessed using a password to be known only to you;

2.5.2 to access a teacher or school account using a code passed on to you by your teacher or school. If you are under 18 your parents must have provided the teacher or school with their consent to this before you use the code; and

2.5.3 you agree that you will keep your account password (if you have one) and any access codes provided to you secure and not known to or visible by anyone else.

## 3. Acceptable Use Policy

3.1 Users of Book Creator must not:

3.1.1 use Book Creator in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these terms, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, such as viruses, or harmful data, into Book Creator;

3.1.2 infringe our intellectual property rights or those of any third party in relation to your use of Book Creator (and please see more about intellectual property rights at clause 6 below);

3.1.3 transmit or otherwise use any material that is defamatory, offensive or otherwise objectionable in relation to your use of Book Creator;

3.1.4 use Book Creator in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users;

3.1.5 collect or harvest any information or data from Book Creator or our systems or attempt to decipher any transmissions to or from the servers running Book Creator;

3.1.6 except in the course of permitted sharing, rent, lease, sub-license, loan, provide, or otherwise make available, Book Creator in any form, in whole or in part to any person without prior written consent from us;

3.1.7 copy Book Creator or content within it, except as part of the normal use of Book Creator and as permitted by these terms;

3.1.8 translate, merge, adapt, vary, alter or modify, Book Creator nor permit Book Creator to be combined with, or become incorporated in, any other programs, except as necessary to use Book Creator as permitted by these terms; and/or

3.1.9 disassemble, de-compile, reverse engineer or create apps based on the whole or any part of Book Creator.

## 4. You must be 18 to accept these terms.

4.1 All users of Book Creator should be aware that you must be 18 or older to accept these terms. If you are younger than 18 years of age you must have the consent of a parent or legal guardian to accept these terms.

## 5. We are not responsible for other websites you link to

5.1 If you include links to other independent websites which are not provided by us in your books created using Book Creator, please note that such independent sites are not under our control and we are not responsible for and have not checked and approved their content. You will need to make your own independent judgement about whether to use any such independent sites.

## 6. Intellectual property rights

6.1 Other than in respect of any content you add to Book Creator when creating books, all intellectual property rights in Book Creator throughout the world belong to us or our licensors. The rights in Book Creator are licensed to you through the duration of our contract with you. You have no intellectual property rights in or to Book Creator other than the right to use Book Creator in accordance with these terms.

6.2 When you use your content or anyone else's content with Book Creator ("User Content") you grant us a perpetual, non-exclusive, royalty free, worldwide licence to in respect of such User Content so that we can carry out certain activities and provide Book Creator to you. These activities include (but are not limited) to:

6.2.1 displaying User Content in books you have created on Book Creator;

6.2.2 sublicensing User Content to third parties so that we can provide the full range of Book Creator services to you, such as ebook publishers, hosting service providers and other technical service providers;

6.2.3 adapting User Content if necessary to enable it to be displayed on and used within Book Creator;

6.2.4 transmitting User Content to ebook publishers and other third party service providers; and

6.2.5 making copies of User Content for technical reasons such as storing your books.

6.3 Please make sure that before you add any User Content to Book Creator that you have obtained any necessary permission and licences from third parties to enable you to grant the rights specified at clause 6.2 to us. If you are unable to obtain such permission and licences you must not use such User Content with Book Creator.

## 7. Publishing books



7.1 Depending on the type of account you hold, you may publish one or more copies of books you have created using Book Creator. You can make your books available to other people by sending them a link to our website that we generate or by publishing your books using Apple's iBook Store or another platform where we make this available.

7.2 If you publish a book using Book Creator and this is accessible using a link to our website we will make your book available during the time that you have a Book Creator account. We have the right, after notifying you, to delete any books and information stored on bookcreator.com if you have not used your account for a long time. You can download books at any stage and it is your responsibility to download books if you do not want to lose that content.

7.3 If you publish a book using Apple's iBook Store or using another platform you may be able to set a price for people to buy the book. Apple's or the relevant platform's terms and conditions of use will apply to any your publication of books.

## 8. Our rights to make changes to Book Creator

**8.1 Minor changes to Book Creator.** We may change Book Creator to reflect changes in relevant laws and regulatory requirements; and/or to implement minor technical adjustments and improvements, for example to address a security threat. These changes will not affect your use of Book Creator.

**8.2 More significant changes to Book Creator.** In addition, we may make changes to Book Creator to improve it and if we do so we will notify you first.

**8.3 Updates to Book Creator.** We may update or require you to update Book Creator from time to time.

## 9. Our rights to make changes to these terms.

9.1 We may make changes to these terms where they require updating to address changes in the law or where we introduce new features of Book Creator that require additional terms to cover such features. We will post in

advance of making changes to these terms. If the changes are significant we will provide a more prominent notice within Book Creator and you can contact us if you are unhappy with such changes and/or want to end your contract with us as a result of such changes.

## 10. Our responsibility for loss or damage suffered by you

**10.1 We are responsible to you for foreseeable loss and damage caused by us.** If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking our contract with you or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us before purchasing Book Creator.

**10.2 We do not exclude or limit in any way our liability to you where it would be unlawful to do so.** This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to Book Creator including the right to receive products which are: as described and match information we provided to you and any sample or model seen or examined by you; of satisfactory quality; fit for any particular purpose made known to us; supplied with reasonable skill and care and, where installed by us, correctly installed; and for defective products under the Consumer Protection Act 1987.

**10.3 Damage to your device or digital content.** If defective digital content which we have supplied damages a device or digital content belonging to you and this is caused by our failure to use reasonable care and skill we will either repair the damage or pay you compensation. However, we will not be liable for damage which you could have avoided by following our advice to apply an update offered to you free of charge or for damage which was caused by you failing to correctly follow installation or other instructions provided to you.

**10.4 We are not liable for business losses.** We only supply Book Creator for educational, domestic and private use. If you use Book Creator for any

commercial, business or re-sale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

## 11. Other important terms

**11.1 We may transfer these terms to someone else.** We may transfer our rights and obligations under these terms to another organisation. We will contact you to let you know if we plan to do this. If you are unhappy with the transfer you may contact us to end the contract within 30 days of us telling you about it.

**11.2 You need our consent to transfer your rights to someone else.** You may only transfer your rights or your obligations under these terms to another person if we agree to this in writing. We may not agree if this transfer would mean that the person you are transferring to is in breach of these terms or otherwise illegal.

**11.3 Nobody else has any rights under these terms (except someone you pass your guarantee on to).** This contract is between you and us. No other person shall have any rights to enforce any of its terms. Neither of us will need to get the agreement of any other person in order to end the contract or make any changes to these terms.

**11.4 If a court finds part of this contract illegal, the rest will continue in force.** Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

**11.5 Even if we delay in enforcing this contract, we can still enforce it later.** If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

**11.6 Which laws apply to this contract and where you may bring legal proceedings.** These terms are governed by English and Welsh law and you can bring legal proceedings in respect of Book Creator in the English and Welsh courts. If you live in Scotland you can bring legal proceedings in

respect of Book Creator in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of Book Creator in either the Northern Irish or the English courts. If you live outside of England, Scotland, Wales or Northern Ireland you may bring proceedings in the English courts.

# Privacy Policy

## **For US users**

*This policy is for users of Book Creator in the US. We have chosen to provide a US specific policy so that we can refer to legislation such as COPPA and FERPA, whereas the [non-US policy](#) is written in the language of GDPR. Your rights and data privacy are equivalent across the policies, and the features and behaviour of Book Creator are consistent across geographies. We just wanted to make the policy easier to read!*

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**Book Creator** is run by **Tools for Schools, Inc.** (we, us, our) and we collect and use information in order to run and manage Book Creator. This policy sets out how we do this and applies to anyone who uses Book Creator, whether by uploading book content or creating and using an account. Please read it carefully and if you are under 13, please ask a parent or guardian to read it for you.

## Who do we collect information from?

We may collect information from teachers, parents, family members, guardians and students who create an account with Book Creator or upload content to Book Creator. We might also collect anonymous information about users before accounts are created or content is uploaded.

## What information do we collect about you?

We may collect the following personal data about you:

- Your name, email address, a password and the school that you are from. You provide this information when you sign up for a Book Creator account.

- Information you choose to send to us, for example in an email.
- Any other personal data that you upload as book content. This may include:
  - text which includes information about you;
  - a video or photo which shows you; and/or
  - audio files which include information about you.
- Some technical information about how you use Book Creator, for example the type of device you are using, your operating system, IP address, uniform resource locator (URL), clickstream and length of visit.
- If you sign into Book Creator using a Google or Office 365 account, we will receive your full name and profile picture from your account provider.
- Sometimes we might be given personal data about you by someone else who is using Book Creator. For example, someone might upload a photo of you to one of their books. It is that person's responsibility to make sure that you don't mind them doing this.

We will only collect the minimum data necessary to run and manage Book Creator.

## How do we use your information?

We use information about you to:

- provide Book Creator and make sure you can use it properly and effectively;
- manage and administer your account and the books that you create;
- respond to any questions, requests or complaints we receive from you;
- communicate with you about Book Creator if we need to;
- investigate potential illegal activities on Book Creator;

- analyse use of Book Creator; and
- to improve Book Creator.

We will never use your information to target advertising at you based on your behavior. We will not build a personal profile of you other than for supporting authorised educational or school purposes, or as authorised by you (or by a parent or guardian if necessary). We also won't use your information for any purposes except those above without letting you know and getting your permission if necessary.

If you are a teacher or school we will work with you as far as we are legally able to accommodate your directions regarding our treatment of personal data belonging to your students, recognizing that the school may be in control of personal data relating to its students.

This includes adhering to a school's requests after Book Creator is no longer in use by a teacher or the school or after this policy is terminated or expires in relation to transfers of students' personal data, deleting students' personal data and making sure that any third parties that work in connection with Book Creator do the same, in each case subject to our legal requirements regarding the use, storage and transfer of such data. You can also request that we provide you with written confirmation of the deletion of your data.

For U.S educational institutions we will work with you to ensure mutual compliance with the Family Education Rights and Privacy Act (FERPA). FERPA is a Federal law that protects personally identifiable information in students' education records from unauthorized disclosure. It affords parents the right to access their child's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. As a parent you may request to access or review your student's records at anytime by contacting your child's school directly.

## Who do we share your information with?

We don't sell your information.

We don't share your information except:

- with third party service providers, such as hosting providers or an email service, so that they can provide services to us. In cases where we share student personal data with these third parties they will be obligated to comply with the commitments in this policy. We maintain a list of these [third party service providers](#).
- if we have a legal obligation to disclose the information (for example, if a court orders us to).
- if another company buys our company, or if we go insolvent, or if we merge with another company, in which case the company that receives your information will protect the information in the same way we do. If we transfer our obligations under our terms of use to another company, this may mean that we need to transfer your personal data to that company. We will contact you to let you know if we plan to do this. If you are unhappy with the transfer you may contact us to end your contract with us within 30 days and if you do so, we will not transfer your data to that company.

Other people might be able to see book content that you create, as well as your name, if they are invited to view the books. For educational usage it is the teacher's responsibility to invite people to view books. People will be invited by a private link so the information cannot be viewed publicly unless someone chooses to make it public. Published books can be removed at any time by the teacher through Book Creator.

All information collected through Book Creator is stored in Google Cloud and hosted in the USA. We take reasonable steps to protect your personal data when it is transferred to Google Cloud. We have signed EU model contract clauses with Google. This means it safeguards your personal data appropriately. You can see a copy of the [model contract clauses](#).

## Information about other people

Sometimes you might want to upload information about other people to Book Creator as part of book content you create, for example, a photo or audio recording of someone else. Please do not do this unless you have that person's consent (or their parent's or guardian's consent, if applicable).

# Security

We have strict security measures in place to try to protect your information and make sure that it is not lost, damaged or accessed by anyone who should not see it. Your data is transmitted securely over SSL and stored in Google Cloud using Google's security model – <https://cloud.google.com/security>. Additionally, we conduct regular security audits on these services and access to this data is restricted to only authorized employees of Tools for Schools with suitable training and background checks.

In the unlikely event of an unauthorized disclosure of your data we will notify you by email (or by telephone where possible) and act in accordance with our legal requirements to resolve such disclosure and prevent any future unauthorized disclosure.

# Your rights

You can ask us for a copy of your personal information and we will try and send this to you as soon as possible (but within one month of receipt of the request).

You can also ask us to correct any information we hold about you that is inaccurate.

You can also ask us to delete your account and all associated personal data at any time.

You can also ask us to restrict our processing of your account (which means that we will only store your account data and not do anything further with it) in certain circumstances, such as where you think your account data is inaccurate and we need time to verify the data.

If you would like to exercise any of these rights, please email us at [info@bookcreator.com](mailto:info@bookcreator.com).

# Deleting information



We don't keep your information for longer than we need to for the purposes listed in this policy.

We will only keep your information for as long as your account is open and you can ask us to delete your account and all associated personal data at any time.

We have the right, after notifying you to delete any books and information stored on bookcreator.com if you haven't used your account for over 12 months. You can download books at any stage and it is your responsibility to download books if you do not want to lose that content.

## Cookies

Book Creator uses cookies to distinguish you from other users. The cookies we use are "analytics" cookies. These allow us to recognise and count the number of users we have and to improve Book Creator and your experience of using it. We may also use functionality cookies to recognise you when you use Book Creator. Some cookies are also used because they are necessary for the performance of Book Creator, for example cookies that allow you to log into Book Creator.

You can block cookies through your browser settings, but if you do you might not be able to use Book Creator properly.

Most cookies used expire when you close your browser, but some are stored for longer than this, for example cookies we use to remember your app settings.

## Changes to this policy

From time to time we may need to change this policy. We will not reduce your rights under this policy, use your data for purposes not covered by it, or lessen the security of your data without your consent. We will post any changes within the policy, so you should check the policy regularly for any changes. If the changes are significant we will provide a more prominent notice, and option to consent to the changes, within Book Creator and will provide you with advance notice of the changes by email.

# Contact information

Should you have any questions relating to this policy, please contact us at [info@bookcreator.com](mailto:info@bookcreator.com) or alternatively in writing at Tools for Schools, Inc., 1321 Upland Dr., Suite 8524, Houston, TX, 77043, USA, or by phone on +1 (832) 736-7282.

For US customers you may also directly contact the iKeepSafe COPPA Safe Harbor program at [COPPAPrivacy@ikeepSAFE.org](mailto:COPPAPrivacy@ikeepSAFE.org).

Effective date: 19th April 2018

# Book Creator DPA

Final Audit Report

2023-11-03

|                 |  |
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