

CONFIDENTIAL

SCHOOLYTICS
CUSTOMER AGREEMENT

This Customer Agreement is made effective as of the Effective Date identified below by and between the customer identified below ("**Customer**," "**you**," or "**your**") and Schoolytics, Inc. ("**Schoolytics**," "**we**," or "**us**"). The "**Agreement**" between you and us consists of: (a) this Order Form (the "**Order Form**"); and (b) the Schoolytics Services Terms and Conditions and all appendices attached thereto and documents incorporated by reference therein (the "**Terms**"). In the event of a conflict or inconsistency between this Order Form and the Terms, except as otherwise expressly set forth in this Order Form, the Terms shall control. Capitalized terms not defined in this Order Form have the meanings given them in the Terms.

Effective Date	April 1, 2025
Customer Name	Albany Unified School District
Term	4/1/2025-6/30/2026
Schoolytics Services Description	Schoolytics proprietary Student Data Platform.
Fees	\$30,000 USD (\$25,000 Annually, \$5K Implementation Fee in 1st Year)
Additional Terms and Conditions (if any)	Integrations: Aeries, Fastbridge, IXL, mClass, iReady, Dibels, CAASPP, Google Classroom, spreadsheet data

This Order Form is signed by duly authorized representatives of the parties and is effective as of the Order Form Effective Date.

SCHOOLYTICS

By:  _____

Name: Aaron Wertman

Title: Chief Executive Officer

Date: _____

CUSTOMER: _____

By: _____

Name: _____

Title: _____

Date: _____

SCHOOLYTICS
TERMS AND CONDITIONS

SERVICES

1. Definitions.

1.1 **“Authorized User”** means Customer and Customer’s employees, consultants, contractors, and agents (a) who are authorized by Customer to access and use the Schoolytics Services under the rights granted to Customer pursuant to this Agreement and (b) for whom access to the Schoolytics Services has been purchased hereunder.

1.2 **“Customer Data”** means, other than Derivative Data and Student Data (as applicable), information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer or any other Authorized User through the Schoolytics Services.

1.3 **“Derivative Data”** means data and information related to Customer Data or Customer’s use of the Schoolytics Services in an aggregated and anonymized form.

1.4 **“Documentation”** means the user manuals, handbooks, and guides relating to the Schoolytics Services we provide to you either electronically or in hard copy form.

1.5 **“Order”** means the Order Form to which these Terms are attached.

1.6 **“Schoolytics IP”** means the Schoolytics Services, the Documentation, and all intellectual property provided to Customer or any other Authorized User in connection with the foregoing. For the avoidance of doubt, Schoolytics IP includes Derivative Data and any information, data, or other content derived from Schoolytics’s monitoring of Customer’s access to or use of Customer Data or the Schoolytics Services but does not include Customer Data.

1.7 **“Schoolytics Services”** means the online services provided by Schoolytics under this Agreement that are made available at <https://schoolytics.io> (or a successor site) as reflected in your Order.

1.8 **“Student Data”** has the meaning set forth in Student Data Protection Addendum attached hereto as Appendix 1.

1.9 **“Third-Party Products”** means any products, content, services, information, websites, or other materials that are owned by third parties and are incorporated into or accessible through the Schoolytics Services.

2. Access and Use.

2.1 Provision of Access. Subject to and conditioned on your payment of Fees and compliance with all other terms and conditions of this Agreement, we hereby agree to provide you a limited right to access and use the Schoolytics Services during the Term solely for non-commercial use by Authorized Users in accordance with the terms and conditions herein. We will provide you the necessary passwords and access credentials to allow you to access the Schoolytics Services.

2.2 Documentation License. Subject to and conditioned on your payment of Fees and compliance with all other terms and conditions of this Agreement, we hereby grant you a non-exclusive, non-sublicensable, non-transferable license for Authorized Users to use the Documentation during the Term solely for non-commercial purposes in connection with use of the Schoolytics Services.

2.3 Downloadable Software. Use of the Schoolytics Services may require or include use of downloadable software. Subject to and conditioned on your payment of Fees and compliance with all other terms and conditions of this Agreement, we grant you a non-transferable, non-exclusive, non-assignable, limited right for Authorized Users to use downloadable software we provide as part of the Schoolytics Services. Any Third-Party Products that consist of downloadable software are subject to the terms of Section 3.6.

2.4 Use Restrictions. You may not, and may not permit any Authorized Users to, use the Schoolytics Services, any software component of the Schoolytics Services, or Documentation for any purposes beyond the scope of the access granted in this Agreement. You shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (a) copy, modify, or create derivative works of the Schoolytics Services, any software component of the Schoolytics Services, or Documentation, in whole or in part; (b) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Schoolytics Services or Documentation except as expressly permitted under this

Agreement; (c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Schoolytics Services, in whole or in part; (d) remove any proprietary notices from the Schoolytics Services or Documentation; (e) use the Schoolytics Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law, regulation, or rule; or (f) use the Schoolytics Services or Documentation (i) if you are a Schoolytics competitor or you offer products or services that compete with the Schoolytics Services or (ii) for the purpose of developing, or having developed, any products or services that may compete with the Schoolytics Services.

2.5 Derivative Data. Notwithstanding anything to the contrary in this Agreement, we may monitor your use of the Schoolytics Services and collect and compile Derivative Data, including without limitation as set forth in the Student Data Protection Addendum attached hereto as Appendix 1 ("DPA"). As between you and us, all right, title, and interest in Derivative Data, and all intellectual property rights therein, belong to and are retained solely by us. You acknowledge that we may compile Derivative Data based on Customer Data and other inputs into the Schoolytics Services. You agree that we may (i) make Derivative Data publicly available in compliance with applicable law, and (ii) use Derivative Data to the extent and in the manner permitted under applicable law. You further acknowledge and agree that Schoolytics is the sole and exclusive owner of, and you assign to Schoolytics all right, title and interest in and to any and all improvements or enhancements to the Service, including without limitation improvements derived from Customer Data or Student Data submitted, provided or otherwise made available pursuant to this Agreement, and including without limitation any and all intellectual property rights in algorithms or models developed through the processing of such data.

2.6 Reservation of Rights. We reserve all rights not expressly granted to you in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to you or any third party any intellectual property rights or other right, title, or interest in or to the Schoolytics IP.

2.7 Suspension. Notwithstanding anything to the contrary in this Agreement, we may temporarily suspend Customer's and any other Authorized User's access to any portion or all of the Schoolytics Services if: (a) we reasonably determine that (i) there is a threat or attack on any of the Schoolytics IP; (ii) Customer's or any other Authorized User's use of the Schoolytics IP disrupts or poses a security risk to the Schoolytics IP or to any of our customers or vendors; (iii) Customer or any other Authorized User is using the Schoolytics IP for fraudulent or illegal activities; (iv) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (v) our provision of the Schoolytics Services to Customer or any other Authorized User is prohibited by applicable law; (b) any of our vendors has suspended or terminated our access to or use of any Third-Party Products required to enable Customer to access the Schoolytics Services; or (c) in accordance with Section 5 (any such suspension described in subclause (a), (b), or (c), a "**Service Suspension**"). We will use commercially reasonable efforts to provide written notice of any Service Suspension to you and to provide updates regarding resumption of access to the Schoolytics Services following any Service Suspension. We will use commercially reasonable efforts to resume providing access to the Schoolytics Services as soon as reasonably possible after the event giving rise to the Services Suspension is cured. We will have no liability for any damage, liabilities, losses (including any loss of or profits), or any other consequences that Customer or any other Authorized User may incur as a result of a Service Suspension.

3. Customer Responsibilities.

3.1 Acceptable Use. You agree not to engage in any of the following prohibited activities: (a) copying, distributing, or disclosing any part of the Schoolytics Services in any medium, including without limitation by any automated or non-automated "scraping"; (b) using any automated system, including without limitation "robots," "spiders," "offline readers," etc., to access the Schoolytics Services in a manner that sends more request messages to our servers or those of our vendors than a human can reasonably produce in the same period of time by using a conventional on-line web browser (except that we grant the operators of public search engines revocable permission to use spiders to copy publicly available materials from the Schoolytics Services for the sole purpose of and solely to the extent necessary for

creating publicly available searchable indices of the materials, but not caches or archives of such materials); (c) transmitting spam, chain letters, or other unsolicited email; (d) attempting to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Schoolytics Services; (e) taking any action that imposes, or may impose at our sole discretion an unreasonable or disproportionately large load on our infrastructure; (f) uploading invalid data, viruses, worms, or other software agents through the Schoolytics Services; (g) collecting or harvesting any personally identifiable information, including account names, from the Schoolytics Services; (h) using the Schoolytics Services for any commercial solicitation purposes; (i) impersonating another person or otherwise misrepresenting your affiliation with a person or entity, conducting fraud, hiding or attempting to hide your identity; (j) interfering with the proper working of the Schoolytics Services; (k) accessing any content on the Schoolytics Services through any technology or means other than those provided or authorized by the Schoolytics Services; or (l) bypassing the measures we may use to prevent or restrict access to the Schoolytics Services, including without limitation features that prevent or restrict use or copying of any content or enforce limitations on use of the Schoolytics Services or the content therein. Further, you will comply with all terms and conditions of this Agreement, all applicable laws, rules, and regulations, and all guidelines, standards, and requirements that may be posted on the Schoolytics Services from time to time.

3.2 Account Use. You are responsible and liable for all uses of the Schoolytics Services and Documentation resulting from access provided by you, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, you are responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by you will be deemed a breach of this Agreement by you. You shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Schoolytics Services and shall cause Authorized Users to comply with such provisions.

3.3 Customer Data. You hereby grant to us a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for us to provide the Schoolytics Services, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer Data incorporated within the Derivative Data. By granting us access to any Third-Party Product for the purpose of transferring Customer Data from such Third-Party Product to us, you represent and warrant that you have all permissions and authorizations necessary to provide us with such access and to permit us to transfer such Customer Data from such Third-Party Product to our servers or those of our vendors. You will ensure that Customer Data and any Authorized User's use of Customer Data will not violate any policy or terms referenced in or incorporated into this Agreement or any applicable law. You are solely responsible for the development, content, operation, maintenance, and use of Customer Data.

3.4 Student Data. To the extent that we gather, or to the extent that you provide to us, any Student Data in connection with this Agreement, the DPA sets forth additional terms regarding our duties and responsibilities to protect Student Data collected, used and processed by us at your direction under this Agreement.

3.5 Passwords and Access Credentials. You are responsible for keeping your passwords and access credentials associated with the Schoolytics Services confidential. You will not sell or transfer them to any other person or entity. You will promptly notify us about any unauthorized access to your passwords or access credentials.

3.6 Third-Party Products. The Schoolytics Services may permit access to Third-Party Products. The Schoolytics Services are also integrated with, and may require the use of, certain Third-Party Products, such as Google Classroom. For purposes of this Agreement, such Third-Party Products are subject to their own terms and conditions, which will be made reasonably available to you by the providers of such Third-Party Products. If you do not agree to abide by the applicable terms for any such Third-Party Products, then you should not install, access, or use such Third-Party Products, and if such Third-Party Product is required to use the Schoolytics Services, you should not access or use the Schoolytics Services.

4. Service Levels and Support. Subject to the terms and conditions of this Agreement, we will use commercially reasonable efforts to make the Schoolytics Services available in accordance with the service levels available at www.schoolytics.io/sla ("**Service Levels**").
5. Fees and Payment. You shall pay us the fees as described on your Order ("**Fees**") within thirty (30) days from the invoice date without offset or deduction. Fees will be payable on a periodic basis in accordance with your Order. Up-to-date pricing for the Schoolytics Services is made available from time to time at www.schoolytics.io/sign-up. You must make all payments hereunder in US dollars on or before the due date. If you fail to make any payment when due, without limiting our other rights and remedies: (a) we may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; (b) you must reimburse us for all costs we incur in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees; and (c) if such failure continues for ten (10) calendar days or more, we may suspend, in accordance with Section 2.7, Customer's and all other Authorized Users' access to any portion or all of the Schoolytics Services until such amounts are paid in full. All Fees and other amounts payable by you under this Agreement are exclusive of taxes and similar assessments. You are responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by you hereunder, other than any taxes imposed on our net income.
6. Confidential Information. From time to time during the Term, you and we may disclose or make available to one another information about our respective business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media, that would be considered confidential by a reasonable person given the nature of the information or the circumstances of its disclosure, whether or not marked, designated, or otherwise identified as "confidential" at the time of disclosure (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the receiving party; (c) rightfully obtained by the receiving party on a non-confidential basis from a third party; or (d) independently developed by the receiving party without use of, reference to, or reliance upon the other party's Confidential Information. The receiving party shall not disclose the disclosing party's Confidential Information to any person or entity, except to the receiving party's employees, agents, or subcontractors who have a need to know the Confidential Information for the receiving party to exercise its rights or perform its obligations hereunder and who are required to protect the Confidential Information in a manner no less stringent than required under this Agreement. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required (i) to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order shall first have given written notice to the other party and made a reasonable effort to obtain a protective order; or (ii) to establish a party's rights under this Agreement, including to make required court filings. Each party's obligations of non-disclosure with regard to Confidential Information are effective as of the date such Confidential Information is first disclosed to the receiving party and will expire five (5) years after the termination or expiration of this Agreement; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.
7. Privacy Policy. We comply with our privacy policy available at <https://www.schoolytics.io/privacy-policy> (the "**Privacy Policy**"), in providing the Schoolytics Services. The Privacy Policy is subject to change as described therein. By accessing, using, and providing information to or through the Schoolytics Services, you acknowledge that you have reviewed and accepted our Privacy Policy, and you consent to all actions taken by us with respect to your information in compliance with the then-current version of our Privacy Policy.
8. Intellectual Property Ownership; Feedback. As between you and us, (a) we own all right, title, and interest, including all intellectual property rights, in and to the Schoolytics Services and (b) you own all right, title, and interest, including all intellectual property rights, in and to Customer Data. If you or any of your employees, contractors, or agents sends or transmits any communications or materials to us by mail,

email, telephone, or otherwise, suggesting or recommending changes to the Schoolytics Services, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), we are free to use such Feedback irrespective of any other obligation or limitation between you and us governing such Feedback. All Feedback is and will be treated as non-confidential. You hereby assign to us on your behalf, and shall cause your employees, contractors, and agents to assign, all right, title, and interest in, and we are free to use, without any attribution or compensation to you or any third party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although we are not required to use any Feedback.

9. Limited Warranties and Warranty Disclaimer.

9.1 Mutual Warranties. Each party hereby represents and warrants to the other that: (a) it is duly organized in the jurisdiction of its formation; and (b) it has sufficient right and authority to enter into this Agreement and to perform its obligations and grant the rights it purports to grant hereunder without any conflict with the rights of others; and (c) its use or provision of the Schoolytics Services, as applicable, does not and will not violate any applicable laws.

9.2 Limited Warranty. We will provide the Schoolytics Services using a commercially reasonable level of care and skill. THE FOREGOING WARRANTY DOES NOT APPLY, AND SCHOOLYTICS STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS.

9.3 Disclaimer of Other Warranties. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN SECTIONS 9.1 AND 9.2, THE SCHOOLYTICS SERVICES ARE PROVIDED "AS IS" AND WE SPECIFICALLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. WE SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. SCHOOLYTICS MAKES NO WARRANTY OF ANY KIND THAT THE SCHOOLYTICS SERVICES, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET YOUR OR ANY OTHER PERSON'S OR ENTITY'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OF YOUR OR ANY THIRD PARTY'S SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

10. Indemnification.

10.1 Schoolytics Indemnification.

(a) We will indemnify, defend, and hold harmless you from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees ("**Losses**"), incurred by you resulting from any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") that the Schoolytics Services infringes or misappropriates, as applicable, such third party's copyrights or trade secrets, provided that you promptly notify us in writing of the Third-Party Claim, cooperates with us in the defense and settlement of the Third-Party Claim, and allow us sole authority to control the defense and settlement of such Third-Party Claim.

(b) If such a Third-Party Claim is made or we reasonably anticipate such a Third-Party Claim will be made, you agree to permit us, at our sole discretion, to (i) modify or replace the Schoolytics Services, or component or part thereof, to make it non-infringing, or (ii) obtain the right for you to continue to use the Schoolytics Services, or component or part thereof, without further infringement. If we determine that neither alternative is reasonably available, we may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to you. This Section 10.1(b) sets forth your sole remedies and our sole liability and obligation for any actual, threatened, or alleged Third-Party Claims that the Schoolytics Services infringe, misappropriate, or otherwise violate any intellectual property rights of any third party.

(c) This Section 10.1 will not apply to the extent that any such Third-Party Claim arises from: (i) Customer Data or Third-Party Products; (ii) any combination of the Schoolytics Services with any hardware, software, or other third-party materials not provided by us; (iii) any modifications to the Schoolytics Services made by anyone other than us; or (iv) any modifications to the Schoolytics Services made by us at your request or direction.

10.2 Customer Indemnification. To the fullest extent permissible under applicable law, you shall indemnify, hold harmless, and, at our option, defend us and our officers, directors, employees, agents, affiliates, successors, and assigns from and against any and all Losses arising from or relating to any Third-Party Claim (a) that the Customer Data, or any use of the Customer Data in accordance with this Agreement, infringes or misappropriates such third party's intellectual property rights; or (b) based on Customer's or any Authorized User's negligence or willful misconduct or use of the Schoolytics Services in a manner not authorized by this Agreement; provided that you may not settle any Third-Party Claim against us unless we consent to such settlement, and further provided that we will have the right, at our option, to defend ourselves against any such Third-Party Claim or to participate in the defense thereof by counsel of our own choice.

11. Limitations of Liability. IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY THIRD-PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER SCHOOLYTICS WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL OUR AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO SCHOOLYTICS UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM OR \$1,000, WHICHEVER IS GREATER.

12. Term and Termination.

12.1 Term. The term of this Agreement begins on the Effective Date and continues until terminated. The Schoolytics Services that are set to automatically renew under an Order will renew for additional successive terms equal to the length of the initial term unless earlier terminated pursuant to this Agreement's express provisions or either party gives the other party written notice of non-renewal at least thirty (30) calendar days prior to the expiration of the then-current services period.

12.2 Termination. In addition to any other express termination right set forth in this Agreement:

(a) Termination for Convenience. Either party may terminate this Agreement for any reason upon thirty (30) days' advance notice to the other party; provided that (i) if we do so, we will refund to you any amounts you prepaid for the time period after termination; and (ii) if you do so, you will not be entitled to a refund of any kind, for any reason.

(b) Termination for Uncured Material Breach. Either party may terminate this Agreement, effective on written notice to the other party, if the other party materially breaches this Agreement, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) calendar days after the non-breaching party provides the breaching party with written notice of such breach.

(c) Other Termination for Cause. Either party may terminate this Agreement, effective immediately upon written notice to the other party, if the other party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) makes or seeks to

make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

12.3 Effect of Termination. Upon termination of this Agreement, you shall immediately discontinue use of the Schoolytics IP. No expiration or termination of this Agreement will affect your obligation to pay all Fees that may have become due before such expiration or termination or entitle you to any refund.

12.4 Survival. Sections 2.5, 5, 6, 10, 11, 12, 14, 15, 16, and 17, and the DPA to the extent reasonably necessary to comply with applicable laws, and any right, obligation, or required performance of the parties in this Agreement which, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.

13. Modifications. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each party.

14. Export Regulation. The Schoolytics Services utilize software and technology that may be subject to US export control laws, including the US Export Administration Act and its associated regulations. You shall not, directly or indirectly, export, re-export, or release the Schoolytics Services or the software or technology included in the Schoolytics Services to, or make the Schoolytics Services or the software or technology included in the Schoolytics Services accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, regulation, or rule. You shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Schoolytics Services or the software or technology included in the Schoolytics Services available outside the US.

15. US Government Rights. Each of the software components that constitute the Schoolytics Services and the Documentation is a "commercial item" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212. Accordingly, if you are an agency of the US Government or any contractor therefor, you receive only those rights with respect to the Schoolytics Services and Documentation as are granted to all other end users, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other US Government customers and their contractors.

16. Governing Law and Jurisdiction.

- a) For U.S. City, County, and State Government Entities. If Customer is a U.S. city, county, or state government entity, then this Agreement will be silent regarding governing law and venue.
- b) For All Other Entities. This Agreement is, and all matters relating hereto shall be, governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Delaware. Any legal suit, action, or proceeding arising out of or related to this Agreement or the rights granted hereunder must be instituted exclusively in the federal courts of the United States or the courts of the District of Columbia in each case located in Washington, DC, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

17. Miscellaneous. This Agreement constitutes the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. Any notices to us must be sent via email to support@schoolytics.io, return receipt requested, and are deemed given upon receipt by us. Any notices to you will be sent to the email address you have on file with us and you hereby consent to receiving electronic communications from us. Electronic communications we may send you include notices about applicable fees and charges, transactional information, and other information concerning or related to the Schoolytics Services. You agree that any notices, agreements, disclosures, or other communications that we send to you

electronically will satisfy any legal communication requirements, including that such communications be in writing. The invalidity, illegality, or unenforceability of any provision herein does not affect any other provision herein or the validity, legality, or enforceability of such provision in any other jurisdiction. Any failure to act by us with respect to a breach of this Agreement by you or others does not constitute a waiver and will not limit our rights with respect to such breach or any subsequent breaches. This Agreement is personal to you and may not be assigned or transferred for any reason whatsoever without our prior written consent and any action or conduct in violation of the foregoing will be void and without effect. We expressly reserve the right to assign this Agreement and to delegate any of our obligations hereunder. Upon reasonable notice, we may audit, at our expense, your use of the Schoolytics Services to ensure past and ongoing compliance with this Agreement.

Appendix 1

Student Data Protection Addendum

This Student Data Protection Addendum (this “**DPA**”) is entered into by and between the school customer, including schools, school districts, teachers, and authorized school users and administrators (for purposes of this DPA, “**School**”) and Schoolytics, Inc. (“**Schoolytics**”) and is effective as of the Effective Date.

The purpose of this DPA is to describe the duties and responsibilities to protect Student Data (defined below) collected, used and processed by Schoolytics at the direction of the School and Schoolytics’ users pursuant to the Agreement, including compliance with all applicable Privacy Laws (defined below). Pursuant to and as fully described in the Agreement, Schoolytics has agreed to provide the Schoolytics Services. In the course of providing the Schoolytics Services, Schoolytics may collect or have access to Student Data (defined below).

1. Definitions. The capitalized defined terms used in this DPA will have the meanings set forth in this Section 1 and as otherwise defined herein. Capitalized terms not defined in this DPA have the meanings given them in the Terms. In the event of a conflict, definitions used in this DPA shall prevail over terms used in all other writings, including, but not limited to, the Terms, privacy policies or any other terms of service.

1.1 “**De-identified Data**” means the Student Data from which all Personally Identifiable Information, including direct and indirect identifiers, has been permanently removed or obscured so the remaining information does not reasonably identify an individual and there is no reasonable basis to believe that the information can be used to identify an individual.

1.2 “**Personally Identifiable Information**” means any information and metadata that, alone or in combination, is linked or linkable to a specific student so as to allow a reasonable person in the school community who does not have knowledge of the relevant circumstances, to identify the student with reasonable certainty. Personally identifiable information will include, but is not limited to, at least the following: first and last name, the name of the student’s parent or family member, telephone number, student identifiers, photos, videos, home address, email address, social security numbers, financial account numbers, biometric identifiers, as well as other indirect identifiers such as the student’s date of birth or gender.

1.3 “**Privacy Laws**” means all federal statutes that govern the privacy of student information, including: the Federal Family Educational Rights and Privacy Act (“**FERPA**”), 20 U.S.C. § 1232(g); Children’s Online Privacy Protection Act (“**COPPA**”), 15 U.S.C. 6501-6502; Protection of Pupil Rights Amendment (“**PPRA**”), 20 U.S.C. 1232; and applicable state laws governing the protection of Personally Identifiable Information from students’ educational records.

1.4 “**Student Data**” means any data, whether gathered by Schoolytics or provided by School or its users, that is Personally Identifiable Information or descriptive of the student including, but not limited to, information that allows physical or online contact, grades, evaluations, disabilities, socioeconomic information, food purchases, voice recordings, or geolocation information. To the extent that U.S. law applies, Student Data may include “educational records” as defined in FERPA (20 U.S.C. § 1232(g)). Student Data will not include De-identified Data.

2. Data Ownership and Authorized Access.

2.1 Ownership and Control. Schoolytics will access and process Student Data solely for the purposes of providing an outsourced institutional function pursuant to FERPA 34 CFR Part 99.31(a)(1). In providing the Schoolytics Services, Schoolytics will be considered a “School Official” (as defined in FERPA) with a legitimate educational interest in the Student Data, under the direction and control of School as it pertains to the use of Student Data. As between the parties, the School owns all right, title, and interest to all Student Data processed by Schoolytics pursuant to the Agreement, and Schoolytics does not own, control, or license such Student Data, except as to provide the Schoolytics Services and as described in the Agreement. Student Data shall not include information a student, parent, guardian or other individual may provide to Schoolytics independent of the student’s engagement in the Schoolytics Services at the direction of the School.

2.2 Account Creation. School accounts must be (a) created by a teacher, student, parent or guardian (for example, when a teacher creates the user name, login and password to establish a School account, or when the teacher, student, parent or guardian uses Google Classroom or similar single sign-on service); or (b) created by a School or authorized School official at the direction of a School, using a School email address and associated with a School's class on the Schoolytics Services. User accounts created with a personal email address will not be Student Records but will remain subject to the privacy protections set out in the Schoolytics Privacy Policy. School is solely responsible for ensuring the creation of accounts on the Schoolytics Services complies with these requirements. If you are accessing or using the Schoolytics Services on behalf of a company, entity, or organization then you represent and warrant that you are an authorized representative of School with the authority to bind such organization to these terms, and that you agree to these terms on behalf of such organization.

2.3 Consents and Authority. School represents and warrants that: (a) School has the authority to provide Student Data to Schoolytics, and to allow Schoolytics to access, collect, process, and otherwise use Student Data as set forth in the DPA and for the purpose of providing the Schoolytics Services; and (b) School has provided appropriate disclosures to, and received appropriate consents from, School's students, their parents or guardians, and any other end users regarding School's sharing of Student Data with Schoolytics and/or Schoolytics' access, collection, processing, and other use of the Student Data as set forth in the DPA, to the extent such disclosures or consents are required by applicable law or by School's contractual obligations.

2.4 Third-Party Student Data Access. School acknowledges and agrees that Schoolytics may permit its employees, subcontractors, subprocessors, service providers and agents (collectively, "**Subcontractors**") to access Student Data provided that they have a legitimate need to access such information in connection with their responsibilities in providing services to Schoolytics. Schoolytics will require all such Subcontractors involved in the handling, transmittal, and/or processing of Student Data to enter into written agreements to protect Student Data in a manner no less stringent than the terms of this DPA. Schoolytics will maintain a record of all Subcontractors that access or receive Personally Identifiable Information contained in Student Data pursuant to this section, and will provide copies of such record to School upon request.

2.5 Third-Party Requests for Access. Should a third party, including a law enforcement entity or other government entity, contact Schoolytics with a request to access data held by Schoolytics as part of its provision of the Schoolytics Services, Schoolytics will redirect the third party to request the data directly from School, unless and to the extent that Schoolytics reasonably believes it must grant such access to the third party because the data disclosure is necessary: (a) pursuant to a court order or legal process, (b) to comply with applicable laws, (c) to enforce the Agreement, or (d) if Schoolytics believes in good faith that such disclosure is necessary to protect the rights, property or personal safety of Schoolytics' users, employees or others. Schoolytics will notify the School in advance of a compelled disclosure to a third party unless legally prohibited.

3. Duties of School.

3.1 School Compliance with Privacy Laws. With regard to data that School permits Schoolytics to collect or access pursuant to the Agreement, School agrees to uphold its responsibilities under laws governing the privacy of Student Data, including the Privacy Laws and to grant Schoolytics access to such data only to the extent permitted by the Privacy Laws. School acknowledges and agrees that, to the extent applicable, School as an educational institution provides consent for Schoolytics to collect Student Data about students, as permitted under applicable Privacy Laws. School represents, warrants, and covenants to Schoolytics that it shall not provide information to Schoolytics from any student or parent/legal guardian that has opted out of the disclosure of "Directory Information" as defined in FERPA.

3.2 License Grant. School hereby grants, and represents and warrants that School has all rights necessary to grant, to Schoolytics a non-exclusive, royalty-free, worldwide license during the Term to use, transmit, distribute, modify, reproduce, display, and store the Student Data solely for the purposes of providing the Schoolytics Services as contemplated by the Agreement, and as otherwise described herein.

3.3 Reasonable Security Precautions and Notice. School will take reasonable precautions to secure usernames, passwords and any other means of gaining access to the Schoolytics Services and to data shared pursuant to the DPA. School will notify Schoolytics promptly of any known or suspected unauthorized access to School's account, Student Data and/or to Schoolytics' systems. School will assist Schoolytics in any efforts by Schoolytics to investigate and respond to any incident involving such unauthorized access.

3.4 School Representative. At Schoolytics's request, School will designate an employee or agent of School as the School representative for the coordination and fulfillment of the duties of this DPA.

4. Duties of Schoolytics.

4.1 Schoolytics Compliance with Privacy Laws. With regard to Student Data that School permits Schoolytics to collect or access pursuant to the Agreement, Schoolytics agrees to uphold its responsibilities, and to support School in upholding School's responsibilities, under applicable Privacy Laws.

4.2 Permitted Use of Student Data. Schoolytics may use, transmit, distribute, modify, reproduce, display, and store the Student Data shared pursuant to the Agreement solely for the purposes of: (a) providing the Schoolytics Services as contemplated by the Agreement, and as otherwise described herein; (b) maintaining, supporting, evaluating, diagnosing, improving and developing the Schoolytics' website, Schoolytics Services and applications; (c) enforcing its rights under the Agreement; (d) as otherwise authorized under the applicable Privacy Laws; and (e) as permitted with the consent of the parent or guardian, student, and/or School. For clarity and without limitation, Schoolytics may use Student Data for adaptive learning purposes or customized student learning and to provide recommendation engines to recommend content or services relating to school purposes or other educational or employment purposes, provided such recommendation is not determined in whole or in part by payment or other consideration from a third party. Schoolytics shall not use Personally Identifiable Information contained in Student Data for any purpose other than as explicitly specified in this DPA.

4.3 Restrictions on Disclosure of Student Data. Schoolytics will not sell, disclose, transfer, share or rent any data obtained under the Agreement in a manner that directly identifies an individual student to any other entity other than the School except: (a) to the extent set forth in the Agreement; (b) as directed or authorized by School, including without limitation, to a parent or guardian authorized by the School to access an individual student's data; or (c) as otherwise described in Section 2 of this DPA.

4.4 Restrictions on Use of Student Data for Advertising. Schoolytics is prohibited from using Student Data to: (a) advertise or market to students or to direct targeted online advertising to students, (b) advertise or market educational products and services to parents/guardians; (c) develop a profile of a student; parent/guardian or group, other than for the purpose of providing educational services or as authorized by School or by a parent/guardian; or (d) for any other commercial purpose unless authorized by School or permitted by applicable law. Notwithstanding the foregoing, nothing in this section shall be read to prohibit Schoolytics from: (i) marketing educational products and services directly to School's employees so long as the marketing does not result from the use of Student Data obtained by Schoolytics from providing the Schoolytics Services; (ii) using Student Data to recommend educational products or services to School's employees so long as the recommendations are not based in whole or in part by payment or other consideration from a third party; and (iii) using aggregate information to inform, influence or enable marketing, advertising, or other commercial efforts by Schoolytics.

4.5 Permitted Use of De-identified Data. Notwithstanding anything to the contrary herein, Schoolytics has the right to generate, use and disclose De-identified Data for the purposes of the development and improvement of educational sites, services, applications, or to demonstrate the effectiveness of Schoolytics' products or services. In addition, Schoolytics has the right to display aggregate summaries of De-identified Data publicly or to Schoolytics's customers. For example, Schoolytics may display analytics or reports at the district, school, grade-level and/or on the basis of specific demographic or educational groups for peer-benchmarking purposes, provided that the published material does not contain individual-level information and cannot reasonably be used to identify any individual student or School, even if such information is combined with data or information maintained by the School or third-party data sources.

4.6 Student Data Deletion or Disposition. School is responsible for maintaining current class rosters and managing Student Data which it no longer needs for an educational purpose through its use of the Schoolytics Services or by submitting a separate request. School may request in writing that Schoolytics delete or retrieve Student Data in Schoolytics' possession at any time, which request Schoolytics will then comply within a commercially reasonable period of time not to exceed thirty (30) days. Schoolytics will continue to maintain a copy of Student Data subject to a retrieval request unless and until Schoolytics receives a deletion request. Upon termination of the Agreement, Schoolytics will automatically delete or destroy all Student Data in its possession within sixty (60) days of the end of the term of the Agreement, except to the extent School submits a data retrieval and transfer request and the parties transfer and delete Student Data according to a schedule and procedures as the parties may reasonably agree upon. Schoolytics is not authorized to maintain Student Data beyond the time reasonably needed to complete the disposition. The duty to dispose of Student Data will not extend to De-identified Data.

4.7 Change of Control. In the event Schoolytics sells, divests, or otherwise transfers all or a portion of its business assets relating to this Agreement to a third party, Schoolytics may transfer Student Data to the new owner provided that (a) the new corporate owner intends to maintain and provide the Schoolytics Services as a going concern and the new owner has agreed to data privacy standards no less stringent than those provided herein; or (b) Schoolytics will give notice to School and an opportunity to opt out of the transfer of Student Data.

5. Data Security and Data Breach.

5.1 Data Security. Schoolytics will implement commercially reasonable administrative, physical and technical safeguards designed to secure Student Data from unauthorized access, disclosure, or use, which may include data encryption, firewalls, physical access controls to buildings and files, and, when the Schoolytics Services is accessed using a supported web browser, Secure Socket Layer or equivalent technology will be employed. Schoolytics will provide data privacy and security training to employees who have access to Student Data or who operate or have access to system controls, and will require employees to adhere to data confidentiality terms providing for the protection of Student Data in a manner consistent with the terms of this DPA. Access to Student Data and Schoolytics' systems will be limited to only those employees and trusted third parties that have a need-to-know basis based on specific job function or role.

5.2 Data Security Incident. If Schoolytics has reason to believe that Student Data is disclosed to or acquired by an unauthorized individual(s) (a "**Security Incident**"), then Schoolytics will investigate the incident and take reasonable steps to remediate systems and controls and to mitigate any potential harm to individuals which may result from the Security Incident and cooperate with School's investigation of the Security Incident.

5.3 Notification to School. Schoolytics will promptly notify School after Schoolytics determines that School's Personally Identifiable Information was affected by the Security Incident, and, to the extent known, identify: (a) the nature of the Security Incident, (b) the steps Schoolytics has executed to investigate the Security Incident, (c) the types of personal information which was subject to the unauthorized disclosure or acquisition, (d) the cause of the Security Incident, if known, (e) the actions Schoolytics has done or will do to remediate any deleterious effect of the Security Incident, and (f) the corrective action Schoolytics has taken or will take to prevent a future Security Incident.

5.4 Notification to Individuals. To the extent School determines that the Security Incident triggers third party notice requirements under applicable laws, as the owner of the Student Data, the School shall be responsible for the timing and content of the notices to be sent. Except as otherwise required by law, Schoolytics will not provide notice of the Security Incident directly to individuals whose personal information was affected, to regulatory agencies, or to other entities, without first providing written notice to School. Schoolytics will be responsible for, and will bear, all notification related costs arising out of or in connection with the Security Incident, subject to any limitations of liability terms contained in the Agreement. For clarity and without limitation, Schoolytics will not be responsible for costs associated with voluntary notification which is not legally required. With respect to any Security Incident which is not due to acts or omissions of Schoolytics or its agents, Schoolytics will reasonably cooperate in performing the activities described above, as School requests, at School's reasonable expense.

6. Miscellaneous.

6.1 Term. The parties will be bound by the provisions of this DPA for the duration of the Agreement or so long as Schoolytics maintains Student Data.

6.2 Limitation of Liability. Unless otherwise agreed upon by the parties in writing, the limitation of liability provision set forth in the Terms will govern this DPA.

6.3 Priority of Agreements. This DPA will govern the treatment of Student Data in order to comply with Privacy Laws. In the event there is conflict between the terms of this DPA and the Terms or other document, bid, RFP, or writing, the terms of this DPA will govern and take precedence to the extent of the conflict, unless and to the extent the parties mutually execute terms to protect Student Data that are no less stringent than those provided herein and the parties mutually agree that such terms shall take precedence over this DPA.. Except as described in this paragraph herein, all other provisions of the Agreement will remain in effect including provisions establishing governing law and venue in the Terms or any other agreement between the parties, which the parties mutually agree will take precedence over the Terms.

6.4 Severability. Any provision of this DPA that is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the parties, it will, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.