

**YONKERS PUBLIC SCHOOLS
ONE LARKIN CENTER
YONKERS, NEW YORK 10701**

CONTRACT NO.:

THIS AGREEMENT, dated as of _____, 2021, by and between **THE**
August 24
YONKERS PUBLIC SCHOOLS acting by and through its Board of Education, a school district established pursuant to New York Education Law, having an office and place of business at One Larkin Center, Yonkers, New York 10701 (the "School District") and **IXL LEARNING**, having offices at 777 Mariners Island Blvd., Suite 600, San Mateo, CA 94404 (the "Consultant"). This Agreement modifies the IXL Learning Terms of Service, available at www.ixl.com/termsofservice.

WITNESSETH:

WHEREAS, the School District desires to procure approximately five thousand of Consultant's site licenses for math, ELA, science, and social studies; and

WHEREAS, the Consultant desires to provide said services.

NOW, THEREFORE, the parties agree as follows:

1. **Description of Services.** The Consultant agrees to provide five thousand (5,000) IXL site licenses in the following subjects: math, ELA, science, and social studies along with Consultant's "Foundations I: Essential Tools for Daily Instruction" (grades PK-12) ("Services"), as more fully set forth in the Consultant's quote, attached hereto and fully incorporated herein as Schedule "A."
2. **Term.** The term of the Agreement, as approved by the Board of Education, shall be commencing as of September 1, 2021 and terminating on June 30, 2022 unless terminated sooner as set forth herein.
3. **Payment.** Notwithstanding anything herein to the contrary, the total dollar amount payable to the Consultant hereunder shall be in an amount not to exceed TWENTY-ONE THOUSAND NINE HUNDRED NINETY and 00/100 DOLLARS (\$21,990.00). Prior to the making of any payments hereunder, the School District may, at its option, audit such books and records of the Consultant as are reasonably pertinent to this Agreement to substantiate the basis for payment.
4. **COVID-19 Safety Compliance.** If Consultant will be performing any work on School District property, the Consultant hereby agrees that Consultant shall, at its own expense, confirm and verify that any and all of Consultant's employees, officers, agents, contractors, subcontractors, and/or appointed and/or elected officials are fully-vaccinated (as defined by the Centers for Disease Control and Prevention) against SARS-CoV-2/COVID-19; or Consultant shall, at its own expense, verify that its employees, officers, agents, contractors, subcontractors, and/or appointed and/or elected officials are tested at least once per week for SARS-CoV-2/COVID-19.

Additionally, the Consultant shall perform all Services set forth in the Agreement in conformance with Federal, State, and/or local Executive Order(s), as well as any guidance issued by the Center for Disease Control and Prevention and/or any New York State or local agency, which shall

include, but not be limited to: the use of facemasks/coverings when on School District property, the cleaning/disinfecting of all applicable surfaces, the use of proper personal protection equipment, health screening, COVID-19 testing, reporting, tracing, and all other social distancing protocols. Consultant agrees that Consultant's failure to comply with this paragraph shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure. The provisions of this paragraph will terminate either on June 30, 2022 or upon the School District's written notice to the Consultant, whichever is earlier.

5. Insurance and Indemnification. The Consultant agrees to procure and maintain insurance naming the School District and the City of Yonkers as additional insured(s) (including without limitation, a waiver of subrogation), as more provided for and described in Schedule "B" entitled "Standard Insurance Provisions," which is attached hereto and made a part hereof. In addition to, and not in limitation of the insurance provisions contained in Schedule "B," the Consultant agrees:

- (a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the School District, Consultant shall defend, indemnify, and hold harmless the School District, the City of Yonkers (the "City") and their respective officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss to the extent arising directly or indirectly out of the willful misconduct or negligent performance or failure to perform hereunder by third parties under the direction or control of the Consultant;
- (b) Consultant further agrees to defend, indemnify, and hold harmless the School District, the City and their respective officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising out of any claim that a deliverable infringes upon an intellectual property right of a third party. If such a claim is made, or appears likely to be made, Consultant agrees to enable the School District's continued use of the deliverable, or to modify or replace it; and
- (c) to the same extent Consultant is required to provide indemnification as in sub-paragraph (a) above, to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

The Consultant further agrees, with respect to the Certificate of Insurance for the above coverage, said certificate must include the School District's purchase order number and bear a notation evidencing a minimum of 30-day cancellation notice to the School District (or such notice as determined by NY Insurance Law §3426).

The Consultant further agrees to give immediate written notice to the School District and the City as to any notice it may receive with respect to any cause of action or claim that has been or may be initiated against the School District and/or City in connection herewith.

All of the provisions of this section will survive termination or other cancellation of this Agreement.

6. Entire Agreement/Order of Precedence. This Agreement and its attachments constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the

parties. In the event of any conflict between the terms of this Agreement and the terms of any schedule or attachment hereto, it is understood that the terms of this Agreement shall be controlling with respect to any interpretation of the meaning and intent of the parties.

7. Termination. The School District, upon five (5) days' notice to the Consultant, may terminate this Agreement in whole or in part when the School District deems it to be in its best interest. In such event, the Consultant shall be compensated and the School District shall be liable only for payment for goods/services already rendered under this Agreement prior to the effective date of termination at the rates specified herein.

In the event the School District determines that there has been a material breach by the Consultant of any of the terms of the Agreement and such breach remains uncured for ten (10) days after service on the Consultant of written notice thereof, the School District, in addition to any other right or remedy it might have, may terminate this Agreement and the School District shall have the right, power and authority to complete the services provided for in this Agreement, or contract for its completion, and any additional expense or cost of such completion shall be charged to and paid by the Consultant.

It is acknowledged and agreed that the School District reserves the right to seek all available remedies, whether provided by law, equity, statute or otherwise, including, but not limited to, damages, reasonable attorney's fees, disbursements and court costs in such amounts as shall be allowed by the court. All rights and remedies provided herein are cumulative and not exclusive of any other rights or remedies that maybe available.

8. Law. This Agreement shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that any cause of action arising out of this Agreement shall be brought in the County of Westchester in the State of New York. If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the parties prior to the determination of such invalidity or unenforceability.

9. Compliance with Law. The Consultant shall comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations, including without limitation, as follows:

- All School District policies, practices and procedures;
- New York State Education Law and New York State Education Department ("NYSED") requirements, including without limitation, with respect to criminal background checks, finger printing, compliance filings and regulations of the Commissioner of Education. Consultant is responsible for all NYSED compliance filings, if any;
- The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99);
- The requirements of New York Education Law § 2-d and any and all applicable regulations including 8 NYCRR Part 121;
- The Health Insurance Portability and Accountability Act ("HIPAA");
- New York State Technology Law § 208;
- The SHIELD Act (Ch. 117 of the Laws of 2019);

- All labor law requirements, including without limitation, prevailing wage, posting, training, pay-roll, filings;
- The City's and the State of New York's civil rights ordinances;
- Title VI of the Civil Rights Act of 1964 as amended;
- Title VII of the Civil Rights Act of 1968 as amended;
- Section 109 of Title I of the Housing and Community Development Act of 1974;
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990;
- The Age Discrimination Act of 1976;
- Executive Orders 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086;
- 41 CFR § 60-1.4;
- The Davis-Bacon Act, as amended (40 U.S.C. §§ 3141-3148);
- The Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708)
- The Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387);
- The Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352); and
- 2 CFR Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

10. Confidential Information. Consultant understands that in performing this Agreement he/she/it may have access to confidential information in possession of the School District or others, including, but not limited to names, facts or information about individuals, businesses and families. Consultant may also have access to confidential information, potentially including student directory information; personnel information and records; information regarding sensitive, confidential or internal School District matters and other protected information. It is agreed that the definition of confidential information includes all documentary, electronic or oral information made known to Consultant through any activity related to this Agreement. Consultant agrees not to reveal any confidential information and understands that any such disclosure shall be considered a breach of this Agreement. Consultant agrees that if he/she/it receives a subpoena for divulgence of confidential information, he/she/it shall notify the School District prior to divulging the same. The parties further agree that the terms and conditions set forth in this Confidentiality section and all of its subparts shall survive the expiration and/or termination of this Agreement. Without limiting any of the foregoing statements in this paragraph, Consultant further agrees, to the extent applicable:

- a. To execute, comply with, and incorporate as Schedule "G" to this Agreement, the Parents' Bill of Rights as required by New York State Education Law Section 2-d;
- b. Not to sell or release a student's personally identifiable information for any commercial purposes;
- c. Not to use the education records of the School District or any student, teacher and/or principal data of the School District, as those terms are defined in Education Law Section 2-d, for any purpose other than those explicitly authorized in this Agreement;
- d. To use reasonable administrative, technical and physical safeguards consistent with industry standards and best practices, including but not limited to encryption, firewalls and password protection, to protect the security, confidentiality and integrity of student, teacher and/or principal data of the School District while in motion or in the custody of Consultant from

unauthorized disclosure;

- e. To limit internal access within Consultant to the education records of the School District as well as to the student, teacher and/or principal data of the School District to those individuals that are determined to need such records or data to perform the services set forth in this Agreement;
 - f. To not disclose any personally identifiable information to any other party, unless:
 - (1) prior written consent of the parent or guardian or student of 18 years of age or older for the disclosure is obtained; or
 - (2) the disclosure is required by statute or court order and the party provides a notice of the disclosure to the New York State Education Department, Board of Education of the School District no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
 - g. To safely store any data concerning the students, teachers and/or principals of the School District, in accordance herewith;
 - h. To immediately notify the School District in the event that any personally identifiable information of the School District, its employees, students or administrators is breached and/or released without authorization;
 - i. Parents and/or guardians of students attending the School District's schools have the right to inspect and review the complete contents of their child's education record, which may include records maintained, stored, transmitted, and/or generated by Consultant; and
 - k. Upon termination of this Agreement, Consultant will destroy or return all such data to the School District and will advise School District as to the means chosen.
 - l. Consultant acknowledges that federal and state laws protect the confidentiality of personally identifiable information of the School District's students as well as its teachers and principals. Consultant represents and warrants that any officers, employees or agents of Consultant, who will have access to student, teacher and/or principal data of the School District, has received or will receive training on the federal and state laws governing confidentiality of such data prior to obtaining access to such data.
11. Compliance with Grants. In the event grant funding is provided hereunder, the Consultant acknowledges and agrees that it has reviewed the applicable grant agreement and any other relevant documents (together the "Grant"). Consultant agrees to, and will cause any subcontractors or other agents under its control to agree to, comply with all applicable Grant requirements.
12. Notice. All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail postage pre-paid), to the addresses first set forth in the Agreement or to such other addresses as the respective parties hereto may designate in writing with a copy to the Corporation Counsel, One Larkin Center, 4th Fl., Yonkers, New York 10701. Notice shall be effective on the date of receipt.
13. Executive Order No. 6-2013. In order to be in compliance with the Executive Order No. 6-2013, the Consultant hereby represents that it, nor any of its principals, have outstanding taxes owed to

the City or judgments pending against them, which would render them a "delinquent contractor" under said Executive Order.

14. Conflict of Interest. The Consultant shall use all reasonable means to avoid any conflict of interest with the School District and/or the City and shall immediately notify the School District and the City in the event of a conflict of interest. The Consultant shall also use all reasonable means to avoid any appearance of impropriety.

15. Assignment. The Consultant shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the School District, subject to any necessary legal approvals. Any purported delegation of duties, assignment of rights or subcontracting of work under this Agreement without the prior express written consent of the School District is void abinitio.

16. IMA. Pursuant to the authorizing legislation adopted by the State of New York and the terms of that certain intermunicipal agreement ("IMA") by and between the School District, acting by and through its Board of Education ("BOE"), and the City, as filed in the Office of the City Clerk on June 16, 2014, the City is responsible for, among other things, undertaking procurement for the District. In furtherance of the IMA, the Consultant hereby expressly acknowledges and agrees that the pricing and terms of this Agreement may be made available to the School District and/or the City as the case may be.

16. Data Sharing Agreement. In accordance with the Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C. § 1232g; 34 CFR Part 99), and all other applicable Federal, state, and local laws, the Consultant hereby agrees to complete and abide with the terms of the Data Sharing Agreement annexed hereto as Schedule "F," which is fully incorporated herein by reference.

17. Third Party Beneficiaries. Except in the event that specific third party rights are expressly granted herein, nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Agreement.

18. Enforceability. This Agreement shall not be enforceable until signed by both parties and approved by the Office of the Corporation Counsel. This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[signature page to follow]

IN WITNESS WHEREOF, the School District and the Consultant have executed this Agreement as of the date first above written.

YONKERS PUBLIC SCHOOLS

IXL LEARNING

By: [Signature]
Name: Dr. Edwin Quezada BG
Title: Superintendent
Date: 8/26/21
By: [Signature]
Name: Rev. Steve Lopez BG
Title: President, Board of Education
Date: 8/31/21

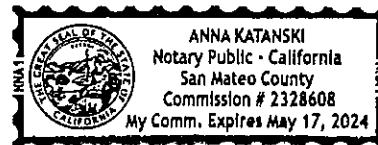
By: [Signature]
Name: Paul Mishkin
Title: CEO
Date: 8.25.2021

Sworn to before me this 25 day of
August 2021.

[Signature]
Notary Public

APPROVED AS TO FORM

[Signature]
Yonkers Senior Associate Corporation Counsel



TO BE COMPLETED BY CITY OF YONKERS BUREAU OF PURCHASING

DATE OF B.O.E. APPROVAL: 9/22/21 - 16.2
DATE OF BOCS APPROVAL (WHERE APPLICABLE): 9/30/21 - 11

Schedule "A"
Vendor's Quote #1075061-5

(attached hereto)



IXL Learning
777 Mariners Island Blvd., Suite 600
San Mateo, CA 94404

QUOTE

QUOTE# 1075061-5
DATE: AUGUST 17, 2021

TO:

Dawn Bartz
Yonkers Public Schools
1 LARKIN CTR
YONKERS, NY 10701

COMMENTS OR SPECIAL INSTRUCTIONS

DISCOUNTED PILOT- 5,000 Student Licenses- Math, ELA, Science, Social Studies
Sept 1, 2021 -June 30, 2022

SALESPERSON	TERMS	SUBSCRIPTION DURATION	QUOTE VALID UNTIL
Megan Burdick		September 1, 2021 -June 30, 2022	September 17, 2021

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
1	IXL site license (Grades PK-12: 5,000 students) Subjects: Math, ELA, Science, and Social studies	\$107,500.00	\$107,500.00
1	Shared Cost pilot discount	-\$87,500.00	-\$87,500.00
2	IXL Foundations I: Essential Tools for Daily Instruction (90-minute virtual professional learning session) <i>Unlimited instructor accounts included</i>	\$995.00	\$1,990.00
SUBTOTAL			\$21,990.00
SALES TAX			--
SHIPPING & HANDLING			--
TOTAL DUE			\$21,990.00

Ordering instructions

We accept payment by purchase order, check, or credit card. To pay by purchase order, please email a copy of your PO to orders@ixl.com or fax it to 650-372-4301. Please be sure to list the quote number on your payment or purchase order. For international accounts, we can accept wire transfers for an additional fee.

Schedule "B"
STANDARD INSURANCE PROVISIONS
(Consultant)

1. Prior to commencing work, and throughout the term of the Agreement, the Contractor shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Contractor shall provide evidence of such insurance to the City of Yonkers and the City's School District, acting by and through its Board of Education (together the "City"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Purchasing ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Contractor and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Contractor shall upon notice to that effect from the City, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Purchasing Bureau of the City for approval by the Director. Upon failure of the Contractor to furnish, deliver and maintain such insurance, the Agreement, at the election of the City, may be declared suspended, discontinued or terminated.

Failure of the Contractor to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Contractor from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Contractor concerning indemnification.

All property losses shall be made payable to the "City of Yonkers" and adjusted with the appropriate City personnel.

In the event that claims, for which the City may be liable, in excess of the insured amounts provided herein are filed by reason of Contractor's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the Contractor shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Contractor maintains broader coverage and/or higher limits than the minimums identified herein, the City shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

2 The Contractor shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the "City of Yonkers" and, if applicable, the "City of Yonkers School District, acting by and through its Board of Education" as additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:
 - i. Premises - Operations.
 - ii. Broad Form Contractual.
 - iii. Independent Contractor and Sub-Contractor.
 - iv. Products and Completed Operations.

- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "City of Yonkers" and, if applicable, the "City of Yonkers School District, acting by and through its Board of Education" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the "City of Yonkers" and, if applicable, the "City of Yonkers School District, acting by and through its Board of Education" for both on-going and completed operations.

All Contracts involving the use of explosives, demolition and/or underground work shall provide proof that XCU is covered.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "City of Yonkers" and, if applicable, the "City of Yonkers School District, acting by and through its Board of Education" as additional insured:

- (i) Owned automobiles.
 - (ii) Hired automobiles.
 - (iii) Non-owned automobiles.

- e) Cyber Liability insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the "City of Yonkers" and, if applicable, the "City of Yonkers School District, acting by and through its Board of Education" as an additional insured on a primary and non-contributory basis.

3. All policies of the Contractor shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the City (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the City is named as an insured, shall not apply to the City.

(c) The insurance companies issuing the policy or policies shall have no recourse against the City (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Contractor.

SCHEDULE "C"

Questionnaire Regarding Business Enterprises Owned and Controlled by Persons of Color or Women

As part of the School District's and City's desire to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in School District and City contracts, and in furtherance of Article VIII of Chapter 13 of the City Code, completion of this form is required.

The term persons of color means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North America; or (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands.

An enterprise owned and controlled by persons of color or women means a business enterprise including a sole proprietorship, limited liability partnership, partnership, limited liability corporation or corporation that is (a) at least 51% owned by one or more persons of color or women; (b) an enterprise in which such ownership by persons of color or women is real, substantial and continuing; (c) an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and (d) an enterprise authorized to do business in this state which is independently owned and operated.

In addition, a business enterprise owned and controlled by persons of color or women shall be deemed to include any business enterprise certified as an MBE or WBE pursuant to article 15-a of the New York State Executive Law and implementing regulations, 9 NYCRR subtitle N Part 540 et seq., or as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

1. Are you a business enterprise which is owned and controlled by persons of color or women in accordance with the standards listed above?

- ☒ No
☐ Yes (as a business owned and controlled by persons of color)
☐ Yes (as a business owned and controlled by women)

2. Are you certified with the State of New York as a minority business enterprise ("MBE") or a women business enterprise ("WBE")?

- ☒ No
☐ Yes (as a MBE)
☐ Yes (as a WBE)

If yes, official documentation of such certification must be attached hereto.

3. If you are a business owned and controlled by persons of color, please specify the minority classifications which apply: _____

4. If you are certified with the State of New York as an MBE, please specify the minority classifications which apply: _____

5. Are you certified with the Federal Government as a small disadvantaged business concern?

- ☐ Yes
☒ No

6. Name of Firm/Business Enterprise: IXL Learning, Inc.

Address: 777 Mariners Island Blvd., Suite 600, San Mateo, CA 94404

Completed By Paul Mishkin / CEO (Print Name/Title):

Signature: 

SCHEDULE "D"
CERTIFICATION REGARDING BUSINESS DEALINGS WITH NORTHERN IRELAND

A. The Consultant and any individual or legal entity in which the Consultant holds a ten percent (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Consultant (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles.

B. For purposes of this Certification, "MacBride Principles" shall mean those principles relating to nondiscrimination in employment and freedom of workplace opportunity which require employers doing business in Northern Ireland to:

- (1) increase the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;
- (2) take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the workplace and while traveling to and from work;
- (3) ban provocative religious or political emblems from the workplace;
- (4) publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;
- (5) establish layoff, recall and termination procedures which do not in practice favor a particular religious group;
- (6) abolish all job reservations, apprenticeship restrictions and differential employment criteria which discriminate on the basis of religion;
- (7) develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from underrepresented religious groups;
- (8) establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement; and
- (9) appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

C. For purposes of this Certification, "Northern Ireland" shall be understood to be the six counties partitioned from the Irish Province of Ulster, and administered from London and/or from Stormont.

D. The Consultant agrees that the warranties and representation in paragraph "A" are material conditions of this Contract. If the School District or City receives information that the Consultant is in violation of paragraph "A", the School District shall review such information and give the Consultant opportunity to respond. If the School District finds that such a violation has occurred, the School District may declare the Consultant in default, and/or terminate this Contract. In the event of any such termination, the School District may procure the supplies, services or work from another source in accordance with applicable law. The Consultant shall pay to the School District the difference between the contract price for the uncompleted portion of this Contract and the cost to the School District and/or City of completing performance of this Contract either by itself or by engaging another contractor. If this is a contract other than a construction contract, the Consultant shall be liable for the difference in price if the cost of procurement from another source is greater than what the School District would have paid the Consultant plus any reasonable costs the School District incurs in any new procurement and if this is a construction contract, the School District shall also have the right to hold the Consultant in partial or total default in accordance with the default provisions of this Contract. In addition, the Consultant may be declared not to be a responsible bidder or proposer for up to three (3) years, following written notice to the Consultant, giving the Consultant the opportunity for a hearing at which the Consultant may be represented by counsel. The rights and remedies of the School District and/or City hereunder shall be in addition to, and not in lieu of, any rights and remedies the School District and/or City has pursuant to this Contract or by operation of law or in equity.

Agreed:

IXL Learning, Inc.

(Legal Name of Person, Firm or Corporation)

By: 

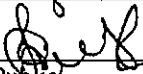
(Signature of Authorized Representative)

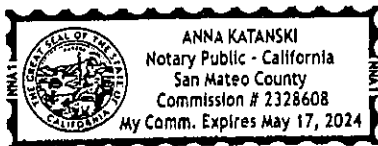
CEO

(Title) CEO

Dated: 8.25.2021

SWORN to before me this 25 day
of August, 2021


Notary Public



SCHEDULE "E"
CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT

As a result of the Iran Divestment Act of 2012 (the "Act"), Chapter 1 of the 2012 Laws of New York, a new provision has been added to State Finance Law (SFL) § 165-a and New York General Municipal Law § 103-g, both effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) (the "Prohibited Entities List"). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Consultant, any person signing on behalf of any Bidder/Consultant and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website, that to the best of its knowledge and belief, that each Bidder/Consultant and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Bidder/Consultant is advised that once the Prohibited Entities List is posted on the OGS Website, any Bidder/Consultant seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.


During the term of the Contract, should the School District or City of Yonkers receive information that a Bidder/Consultant is in violation of the above-referenced certification, the School District and/or the City will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the School District and/or the City shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Consultant in default.

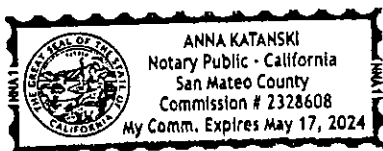
The School District and the City reserve the right to reject any bid or request for assignment for a Bidder/Consultant that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any Bidder/Consultant that is awarded a contract and subsequently appears on the Prohibited Entities List.

I, Paul Mishkin, being duly sworn, deposes and says that he/she is the
CEO of the IXL Learning, Inc Corporation and that neither the
Bidder/Consultant nor any proposed subcontractor is identified on the Prohibited Entities List.


SIGNED

SWORN to before me this 25 day
of August, 2021


Notary Public



SCHEDULE "F"

DATA SHARING AGREEMENT

The Yonkers Public Schools (YPS) and Contractor (collectively, the "parties") wish to enter into an agreement whereby Contractor is granted access to YPS's student data (the "Data"). The purpose of this Data Sharing Agreement is to raise the effectiveness of the services provided by Contractor and YPS, and additionally allow for contractor to evaluate the parties' programs. The scope of the Data Sharing Agreement is limited to data provided to Contractor by YPS. This Agreement modifies the IXL Learning Terms of Service, available at www.ixl.com/termsofservice.

The YPS hereby grants Contractor a limited, nontransferable, revocable, non-exclusive license to use the Data solely for the purposes and solely in the manner set forth in this agreement. This agreement applies to all Data that is provided to Contractor from official YPS records. For the purpose of this agreement, "Data" include but are not limited to student records and student information that describe the demographic or other characteristics, academic achievement and/or performance, programs or activities or other direct or indirect identifiers of an individual student. Data may be in electronic or paper format.

1. YPS acknowledges Contractor as a long term partner in delivering effective services to YPS students and thus, is authorized to access the Data in support of this partnership in accordance with this Agreement.
 - a. Contractor will limit internal access within Contractor to any shared YPS Data solely to those individuals that are determined to need such Data to support program evaluation research in partnership with YPS.
 - b. Upon implementation of this Agreement, Contractor will provide the YPS with a list of those individuals authorized to access the Data. For the purposes of Contractor's support of program evaluation research, Contractor may share the Data solely with the list of authorized persons.
 - i. To add to, delete or change this list, Contractor must give prior written notice to the YPS and subsequently receive written permission from YPS.
 - ii. Contractor shall ensure that each authorized individual implements and fully complies with the same restrictions and conditions that apply through this agreement to YPS with respect to the Data.
2. This Data Sharing Agreement's duration is limited to the term of this agreement as specified in paragraph "3" of the Contract. After the expiration of the contract, Contractor may not thereafter use the Data unless this agreement is extended in writing by YPS. Not later than 30 days after the expiration date, Contractor shall either permanently destroy the Data and all copies thereof or return the Data to the YPS. Contractor shall not keep a copy of the Data in any form or format. If Contractor requires extended access to this Data, a written request must be submitted to the YPS, and subsequently approved in writing by YPS.
3. Contractor agrees to make available to the YPS, for the improvement of instruction, the results of Contractor's program evaluation research, at the request of the YPS.
4. As to any studies developed as a result of this data agreement, except as permitted by FERPA and other applicable law, Contractor shall not publish confidential information or any other information which identifies students, employees or officers of the YPS without first obtaining written consent from the YPS. Also, Contractor shall remove the School District's name and any identifying information from the publication if the YPS requests and you shall not make any statement to the media relating to the subject matter of this agreement without the School District's prior written consent.
5. Contractor acknowledges and agrees to comply with the re-disclosure limitations set forth in FERPA, including in 34 C.F.R. § 99.33. The United States Department of Education, Family Policy Compliance

Office, provides more information concerning FERPA at its web pages, at: www.ed.gov/policy/gen/guid/fpco/ferpa/index.html.

6. Contractor shall maintain and protect the confidentiality of the Data and keep the Data in a secure environment, with access restricted solely to the list of authorized person or persons submitted to the YPS;
7. Contractor agrees to require all employees, contractors, and agents of any kind to comply with all applicable provisions of FERPA and other federal laws with respect to the data shared under this agreement. Researcher further agrees to require and maintain an appropriate confidentiality agreement from each employee, contractor, or agent with access to data pursuant to this Agreement. Nothing in this paragraph authorizes sharing data provided under this Agreement with any other entity for any purpose other than completing the work as authorized under this Agreement.
8. Contractor shall use encryption technology to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the secretary of the United States department of health and human services in guidance issued under Section 13402(H)(2) of Public Law 111-5.
 - a. Contractor may not transmit the Data via unencrypted e-mail, but must rely solely on secure transmission methods, including hand delivery in a sealed envelope.
9. Contractor explicitly acknowledges and agrees that it and all those it employs and controls cannot sell or release any Data which has been shared with it, pursuant to this Agreement, for any commercial purposes.
10. Contractor shall immediately notify the YPS in the event it suspects or becomes aware that any Data, which has been shared with it pursuant to this Agreement, has been or may have been breached and/ or released without authorization.
11. Contractor acknowledges that federal and state laws protect the confidentiality of personally identifiable Data of YPS students, teachers and principals. Contractor represents and warrants that any officers, employees or agents of Contractor who will have access to the Data to be shared pursuant to this Agreement has received or will receive training on the Federal and State laws governing confidentiality of such Data prior to obtaining access to such Data.
12. Contractor shall forward to the YPS, free of charge, a copy of any formal research report that is generated using the Data.
13. If Contractor fails to comply with the terms, conditions and limits set forth in this agreement, the Yonkers Public Schools shall have the right, at its option: to (a) terminate this agreement immediately; (b) compel Contractor to comply with this agreement; (c) seek any other remedy available at law or in equity; or (d) pursue any combination of these remedies.
14. Contractor agrees that to the fullest extent permitted by law, Contractor will hold harmless, defend and indemnify YPS and the City of Yonkers, its agents, employees, and board members from any liability, cost or expense, including without limitation penalties, losses, damages, attorneys' fees, taxes, expenses of litigation, judgments, liens, and encumbrances, to the extent arising out of or resulting from any act or omission by Contractor under this Agreement. The terms of this section shall survive termination of this Agreement.

I acknowledge and agreement agree to the terms of this Schedule, and understand that this Schedule will be deemed incorporated by reference into any agreement entered into between the contractor and the City /School District.

IXL Learning, Inc.

Name:

Paul

Mishin

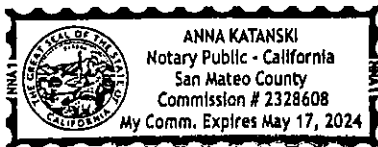
Title:

CEO

Date: 8.25.2021

SWORN to before me this 25 day
of August, 2021


Notary Public



SCHEDULE "G"
Yonkers City School District
Parents' Bill of Rights for Data Privacy and Security

The Yonkers City School District is dedicated and committed to protecting the privacy and security of student, teacher, and principal data. In accordance with New York State Education Law Section 2-d, the Yonkers Public School District hereby sets forth the following Parents' Bill of Rights for Data Privacy and Security, which is applicable to all students and their parents and legal guardians. New York State Education Law Section 2-d and the Family Educational Rights and Privacy Act ("FERPA") protect the confidentiality of personally identifiable information. The following is the Yonkers Public Schools Bill of Rights for Data Privacy and Security.

The Yonkers City School District, in recognition of the risk of identity theft and unwarranted invasion of privacy, affirms its commitment to safeguarding student personally identifiable information ("PII") in educational records from unauthorized access or disclosure in accordance with both State and Federal law. The Yonkers City School District establishes the following parental bill of rights:

1. Student PII will be collected and disclosed only as necessary to achieve educational purposes in accordance with State and Federal Law.

2. A student's personally identifiable information cannot be sold or released for any marketing or commercial purposes by the district or any third party contractor. The district will not sell student personally identifiable information and will not release it for marketing or commercial purposes, other than directory information released by the district in accordance with district policy.

3. Parents have the right to inspect and review the complete contents of their child's education record.

4. State and federal laws, such as New York State Education Law § 2-d and the Family Educational Rights and Privacy Act, protect the confidentiality of students' PII. Safeguards associated with industry standard and best practices, including, but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.

5. A complete list of all student data elements collected by the State Education Department is available for public review at <http://nysed.gov.data-privacy-security> or by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234.

6. Parents have the right to have complaints about possible breaches and unauthorized disclosures of student data addressed. Complaints should be directed to:

Deputy Superintendent, Yonkers Public Schools, One Larkin Center, Yonkers NY
10701 or send an email to BORComplaints@yonkerspublicschools.org.

b. Complaints can also be directed to the New York State Education Department online at <http://nysed.gov.data-privacy-security>, by mail to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234 or by email to privacy@mail.nysed.gov or by telephone at (518) 474-0937.

7. Parents have the right to be notified in accordance to applicable laws and regulations if a breach or unauthorized release of their student's PII occurs.

8. Parents can expect that educational agency workers who handle PII will receive annual training on applicable federal and state laws, regulations, educational agency's policies and safeguards which will be in alignment with industry standards and best practices to protect PII.

9. In the event that the District engages a third party provider to deliver student educational services, the contractor or subcontractors will be obligated to adhere to State and Federal Laws to safeguard student PII. Parents can request information about third party contractors by contacting Deputy Superintendent, Division of Teaching and Learning, Yonkers Public Schools, One Larkin Center, Yonkers NY 10701 or send an email to BORComplaints@yonkerspublicschools.org.

New York State, through the New York State Education Department, collects a number of student data elements for authorized uses. A complete list of all student data elements collected by the State is available online through <http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx> for public review online. You may obtain a copy by writing to: Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany NY 12234.

10. For purposes of further ensuring confidentiality and security of student data, as an appendix to the Parents' Bill of Rights each contract Yonkers Public schools enters into with a third party Consultant shall include the following supplemental information:

- a. the exclusive purposes for which the student, principal or teacher data will be used;
- b. how the third party Consultant will share the student, principal or teacher data with, if any, will abide by data protection and security requirements;
- c. When the agreement expires and what happens to the student, teacher, or principal data upon expiration of the agreement;
- d. If and how a parent/guardian, student, eligible student, teacher, or principal may challenge the accuracy of the student data or teacher/principal data that is collected; and
- e. Where the student, teacher, or principal data will be stored (described in such a manner to protect data security), and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

The Yonkers Public Schools Parents' Bill of Rights for Data Privacy and Security reflects information available as of this document's creation. The District Bill of Rights is subject to revision and is projected for revision in accordance with further guidance received, including guidance through NYSED. Additional information is available on the New York State Education Department website.

<http://www.p12.nysed.gov/docs/parents-bill-of-rights.pdf>

Acknowledged and agreed to:

IXL Learning, Inc.

(Legal Name of Person, Firm or Corporation)

By:



ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
8/24/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh & McLennan Agency LLC Marsh & McLennan Ins Agency LLC 1340 Treat Blvd #250 Walnut Creek, CA 94597	CONTACT NAME: Felicia McAroy	
	PHONE (A/C, No, Ext): 925 482-9337	FAX (A/C, No): 925 482-9390
	E-MAIL ADDRESS: Felicia.McAroy@MarshMMA.com	
INSURED IXL Learning, Inc. 777 Mariners Island Blvd., Suite 600 San Mateo, CA 94404	INSURER(S) AFFORDING COVERAGE	
	INSURER A: National Fire Insurance Co of Hartford	NAIC # 20478
	INSURER B: Continental Casualty Company	20443
	INSURER C: Columbia Casualty Company	31127
	INSURER D:	
	INSURER E:	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	6079015684	08/21/2021	08/21/2022	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	X	X	6079015698	08/21/2021	08/21/2022	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000			6079015720	08/21/2021	08/21/2022	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	6079015703	08/21/2021	08/21/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	Professional / Cyber Liability			652142286	08/21/2021	08/21/2022	\$5,000,000 Aggregate \$5,000,000 Occurrence \$25,000 Deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Yonkers Public Schools and the City of Yonkers are included as Additional Insured (General Liability and Auto Liability), per the attached. Insurance is primary and non-contributory. General Liability, Auto Liability and Workers Compensation Waivers of Subrogation apply per the attached.

CERTIFICATE HOLDER

CANCELLATION

City of Yonkers and the Yonkers Public Schools One Larkin Center Yonkers, NY 10701	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

© 1988-2015 ACORD CORPORATION. All rights reserved.

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/26/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh & McLennan Agency LLC Marsh & McLennan Ins Agency LLC 1340 Treat Blvd #250 Walnut Creek, CA 94597	CONTACT NAME: Felicia McAroy PHONE (A/C, No, Ext): 925 482-9337 FAX (A/C, No): 925 482-9390 E-MAIL ADDRESS: Felicia.McAroy@MarshMMA.com INSURER(S) AFFORDING COVERAGE INSURER A: Columbia Casualty Company NAIC # 31127 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED IXL Learning, Inc. 777 Mariners Island Blvd., Suite 600 San Mateo, CA 94404	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional / Cyber Liability			652142286	08/21/2021	08/21/2022	\$5,000,000 Aggregate \$5,000,000 Occurrence \$25,000 Deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Evidence of Insurance.

CERTIFICATE HOLDER

CANCELLATION

City of Yonkers and the Yonkers Public Schools One Larkin Center Yonkers, NY 10701	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
---	---



Workers'
Compensation
Board

CERTIFICATE OF INSURANCE COVERAGE DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only)
IXL LEARNING INC
777 MARINERS ISLAND BLVD STE 600
SAN MATEO, CA 94404

Work Location of Insured (Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)

1b. Business Telephone Number of Insured
(650) 372-4041

1c. Federal Employer Identification Number of Insured or Social Security Number
943321802

2. Name and Address of Entity Requesting Proof of Coverage
(Entity Being Listed as the Certificate Holder)

IXL LEARNING INC
777 MARINERS ISLAND BLVD STE 600
SAN MATEO, CA 94404

3a. Name of Insurance Carrier

New York State Insurance Fund (NYSIF)

3b. Policy Number of Entity Listed in Box "1a"
DBL 6369 29 - 3

3c. Policy effective period

07/27/2021

to

07/27/2022

4. Policy provides the following benefits:

- ☒ A. Both disability and paid family leave benefits
☐ B. Disability benefits only
☐ C. Paid family leave benefits only

5. Policy covers:

- ☒ A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law
☐ B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 9/24/2021

By

Kristin Markwica

(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number (866) 697-4332

Name and Title Kristin Markwica, Head of Disability Insurance Unit

IMPORTANT: If Box 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____

By _____

(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____

Name and Title _____

Please Note: Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1. Insurance brokers are NOT authorized to issue this form.

Additional Instructions for Form DB-120.1

By signing this form, the insurance carrier identified in box "3" on this form is certifying that it is insuring the business referenced in box "1a" for disability and/or paid family leave benefits under the New York State Disability and Paid Family Leave Benefits Law. The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Worker's Compensation Board within 10 days IF a policy is cancelled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in Box 3c, whichever is earlier.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Disability and/or Paid Family Leave Benefits contract of insurance only while the underlying policy is in effect.

Please Note: Upon the cancellation of the disability and/or paid family leave benefits policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of NYS Disability and/or Paid Family Leave Benefits Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Disability and Paid Family Leave Benefits Law.

DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

§220. Subd. 8

(a) The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in employment as defined in this article, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits and after January first, two thousand and twenty-one, the payment of family leave benefits for all employees has been secured as provided by this article. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any disability benefits to any such employee if so employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in employment as defined in this article and notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits, and after January first, two thousand eighteen, the payment of family leave benefits for all employees has been secured as provided by this article.



**Workers'
Compensation
Board**

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) IXL LEARNING INC 777 MARINERS ISLAND BLVD STE 600 SAN MATEO, CA 94404-5046 Work Location of Insured (Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy) 	1b. Business Telephone Number of Insured 1c. NYS Unemployment Insurance Employee Registration Number of Insured 20-622418 1d. Federal Employer Identification Number of Insured or Social Security Number 94-3321802
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) City of Yonkers and the Yonkers Public Schools One Larkin Center, Fourth Floor Yonkers, New York 10701	3a. Name of Insurance Carrier THE CONTINENTAL INSURANCE COMPANY 3b. Policy Number of Entity Listed in Box "1a" WC 6 79015703 3c. Policy effective period 08/21/2021 to 11/01/2022 3d. The Proprietor, Partners or Executive Officers are <input type="checkbox"/> included. (Only check box if all partners/officers included) <input type="checkbox"/> all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Kathleen Gabey

(Authorized representative or licensed agent of insurance carrier)

Approved by:

Kathleen Gabey

(Signature)

09/08/2021

(Date)

Title: Policy Support Assistant

Telephone Number of authorized representative or licensed agent of insurance carrier: 407-804-7423

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-17)

www.wcb.ny.gov

INSURED: IXL Learning, Inc.

POLICY #: 6079015684

POLICY
PERIOD:

08/21/2021

TO 08/21/2022



Technology General Liability Extension Endorsement

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

TABLE OF CONTENTS

- | |
|--|
| 1. Additional Insureds |
| 2. Additional Insured - Primary And Non-Contributory To Additional Insured's Insurance |
| 3. Bodily Injury – Expanded Definition |
| 4. Broad Knowledge of Occurrence/ Notice of Occurrence |
| 5. Broad Named Insured |
| 6. Estates, Legal Representatives and Spouses |
| 7. Expected Or Intended Injury – Exception for Reasonable Force |
| 8. In Rem Actions |
| 9. Incidental Health Care Malpractice Coverage |
| 10. Joint Ventures/Partnership/Limited Liability Companies |
| 11. Legal Liability – Damage To Premises |
| 12. Medical Payments |
| 13. Non-owned Aircraft Coverage |
| 14. Non-owned Watercraft |
| 15. Personal And Advertising Injury – Discrimination or Humiliation |
| 16. Personal And Advertising Injury - Limited Contractual Liability |
| 17. Property Damage - Elevators |
| 18. Supplementary Payments |
| 19. Property Damage – Patterns, Molds and Dies |
| 20. Unintentional Failure To Disclose Hazards |
| 21. Waiver of Subrogation – Blanket |



Technology General Liability Extension Endorsement

1. ADDITIONAL INSURED

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A. through K.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

- (1) is currently in effect or becomes effective during the term of this **Coverage Part**; and
- (2) was executed prior to:
 - (a) the **bodily injury or property damage**; or
 - (b) the offense that caused the **personal and advertising injury**,
for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

- (1) a higher limit of insurance than required by such contract or agreement; or
- (2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A. through K.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

- 1. such person or organization's financial control of a **Named Insured**; or
- 2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury, property damage or personal and advertising injury** as co-owner of such premises.

C. Grantor of Franchise

Any person or organization that has granted a franchise to a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** as grantor of a franchise to the **Named Insured**.

D. Lessor of Equipment

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

E. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The



Technology General Liability Extension Endorsement

coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
 - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - b. the construction, erection, or removal of elevators; or
 - c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

I. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:
 - a. the **Named Insured's** acts or omissions; or
 - b. the acts or omissions of those acting on the **Named Insured's** behalf,in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.



Technology General Liability Extension Endorsement

2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

J. Vendor

Any person or organization but only with respect to such person or organization's liability for **bodily injury** or **property damage** arising out of **your products** which are distributed or sold in the regular course of such person or organization's business, provided that:

1. The coverage granted by this paragraph does not apply to:
 - a. **bodily injury** or **property damage** for which such person or organization is obligated to pay **damages** by reason of the assumption of liability in a contract or agreement unless such liability exists in the absence of the contract or agreement;
 - b. any express warranty unauthorized by the **Named Insured**;
 - c. any physical or chemical change in any product made intentionally by such person or organization;
 - d. repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. any failure to make any inspections, adjustments, tests or servicing that such person or organization has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. demonstration, installation, servicing or repair operations, except such operations performed at such person or organization's premises in connection with the sale of a product;
 - g. products which, after distribution or sale by the **Named Insured**, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for such person or organization; or
 - h. **bodily injury** or **property damage** arising out of the sole negligence of such person or organization for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - (1) the exceptions contained in Subparagraphs d. or f. above; or
 - (2) such inspections, adjustments, tests or servicing as such person or organization has agreed with the **Named Insured** to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
2. This Paragraph J. does not apply to any insured person or organization, from whom the **Named Insured** has acquired such products, nor to any ingredient, part or container, entering into, accompanying or containing such products.
3. This Paragraph J. also does not apply:
 - a. to any vendor specifically scheduled as an additional insured by endorsement to this **Coverage Part**;
 - b. to any of **your products** for which coverage is excluded by endorsement to this **Coverage Part**; nor
 - c. if **bodily injury** or **property damage** included within the **products-completed operations hazard** is excluded by endorsement to this **Coverage Part**.

K. Other Person Or Organization / Your Work

Any person or organization who is not an additional insured under Paragraphs A. through J. above. Such additional insured is an **Insured** solely for **bodily injury**, **property damage** or **personal and advertising injury** for which such additional insured is liable because of the **Named Insured's** acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

1. who is specifically scheduled as an additional insured on another endorsement to this **Coverage Part**; nor



Technology General Liability Extension Endorsement

2. for **bodily injury** or **property damage** included within the **products-completed operations hazard** except to the extent all of the following apply:
 - a. this **Coverage Part** provides such coverage;
 - b. the written contract or agreement described in the opening paragraph of this **ADDITIONAL INSURED'S** Provision requires the **Named Insured** to provide the additional insured such coverage; and
 - c. the **bodily injury** or **property damage** results from **your work** that is the subject of the written contract or agreement, and such work has not been excluded by endorsement to this **Coverage Part**.

2. **ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

- A. The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision 2., the additional insured's own insurance means insurance on which the additional insured is a named insured.

- B. With respect to persons or organizations that qualify as additional insureds pursuant to paragraph 1.K. of this endorsement, the following sentence is added to the paragraph above:

Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. **BODILY INJURY – EXPANDED DEFINITION**

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

Bodily injury means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

4. **BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE**

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** Condition is amended to add the following provisions:

A. **BROAD KNOWLEDGE OF OCCURRENCE**

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or to an **employee** designated by any of the above to give such notice.

B. **NOTICE OF OCCURRENCE**

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

5. **BROAD NAMED INSURED**

WHO IS AN INSURED is amended to delete its Paragraph 3. in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph 4. below, any organization in which a **Named Insured** has management control:
 - a. on the effective date of this **Coverage Part**; or
 - b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,



Technology General Liability Extension Endorsement

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

- (a) any partnership or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, and of this endorsement's **JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES** provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation, or the members of the management board of a limited liability company; or
 - B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.
4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:
- a. **bodily injury or property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
 - b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.
5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

6. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for **claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

7. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

Expected or Intended Injury

Bodily injury or property damage expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury or property damage** resulting from the use of reasonable force to protect persons or property.

8. IN REM ACTIONS

A quasi *in rem* action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were *in personam* against the **Named Insured**.



Technology General Liability Extension Endorsement

9. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

- b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:
 - (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.
 - (2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

- i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

- ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

- iii. add the following additional exclusions.

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, that includes but shall not be limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any **health care incident** for which coverage is excluded by endorsement.

C. **DEFINITIONS** is amended to:

- i. add the following definitions:

Health care incident means an act, error or omission by the **Named Insured's** employees or volunteer workers in the rendering of:

- a. **professional health care services** on behalf of the **Named Insured** or
- b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.



Technology General Liability Extension Endorsement

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

- a. Physician;
- b. Nurse;
- c. Nurse practitioner;
- d. Emergency medical technician;
- e. Paramedic;
- f. Dentist;
- g. Physical therapist;
- h. Psychologist;
- i. Speech therapist;
- j. Other allied health professional; or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing.

- ii. delete the definition of **occurrence** and replace it with the following:

Occurrence means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

- iii. amend the definition of **Insured** to:

- a. add the following:

- the **Named Insured's employees** are **Insureds** with respect to:

(1) **bodily injury** to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

- the **Named Insured's volunteer workers** are **Insureds** with respect to:

(1) **bodily injury** to a co-**volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

- b. delete Subparagraphs (a), (b), (c) and (d) of Paragraph 2.a.(1) of **WHO IS AN INSURED**.

- c. add the following:

Insured does not include any physician while acting in his or her capacity as such.

- D. The **Other Insurance** condition is amended to delete Paragraph b.(1) in its entirety and replace it with the following:

Other Insurance



Technology General Liability Extension Endorsement

b. Excess Insurance

- (1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

10. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

No person or organization is an **Insured** with respect to:

- the conduct of any current or past partnership or joint venture that is not shown as a **Named Insured** in the Declarations; nor
- the conduct of a current or past limited liability company in which a **Named Insured's** interest does/did not rise to the level of management control;

except that if the **Named Insured** was a joint venturer, partner, or member of such a limited liability company, and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, then such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

- a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense, first occurred after such termination date;
- b. the **bodily injury** or **property damage** first occurred after such termination date; and
- c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

11. LEGAL LIABILITY – DAMAGE TO PREMISES

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the first paragraph immediately following subparagraph (6) of the **Damage to Property** exclusion and replace it with the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire, lightning, explosion, smoke or leakage from automatic fire protective systems) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

- B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions c. through n. do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protective systems to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in the **LIMITS OF INSURANCE** Section.

- C. **LIMITS OF INSURANCE** is amended to delete Paragraph 6. (the Damage To Premises Rented To You Limit) and replace it with the following:

6. Subject to Paragraph 5. above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **COVERAGE A** for **damages** because of **property damage** to:
- a. any one premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with the permission of the owner; and
 - b. contents of such premises if the premises is rented to the **Named Insured** for a period of 7 or fewer consecutive days.



Technology General Liability Extension Endorsement

The Damage To Premises Rented To You Limit is \$500,000. unless a different Damage to Premises Rented to You Limit is shown in the Declarations.

- D. The **Other Insurance** Condition is amended to delete Paragraph b.(1)(a)(ii), and replace it with the following:
- (ii) That is property insurance for premises rented to a **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;
- E. This Provision 11. does not apply if liability for damage to premises rented to a **Named Insured** is excluded by another endorsement attached to this **Coverage Part**.

12. MEDICAL PAYMENTS

- A. **LIMITS OF INSURANCE** is amended to delete Paragraph 7. (the Medical Expense Limit) and replace it with the following:
7. Subject to Paragraph 5. above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C – Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:
- (1) \$15,000 unless a different amount is shown here: \$<insert (\$) amount>; or
- (2) the amount shown in the Declarations for Medical Expense Limit.
- B. Under **COVERAGES**, the **Insuring Agreement of Coverage C – Medical Payments** is amended to replace Paragraph 1.a.(3)(b) with the following:
- (b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

13. NON-OWNED AIRCRAFT

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

14. NON-OWNED WATERCRAFT

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph (2) of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

- (2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:
- (a) less than 75 feet long; and
- (b) not being used to carry persons or property for a charge.

15. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION

- A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:
- Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.
- B. Under **COVERAGES**, **Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:



Technology General Liability Extension Endorsement

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

Knowing Violation of Rights of Another

Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

- (a) the **Named Insured**; or
- (b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

This insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

- Provision 1. **ADDITIONAL INSURED** of this endorsement; or
- attachment of an additional insured endorsement to this **Coverage Part**.

16. PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY

- A. Under **COVERAGES**, Coverage B –**Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

Personal and advertising injury for which the **Insured** has assumed liability in a contract or agreement.

This exclusion does not apply to liability for **damages**:

- (1) that the **Insured** would have in the absence of the contract or agreement; or
- (2) assumed in a contract or agreement that is an **insured contract** provided the offense that caused such **personal or advertising injury** first occurred subsequent to the execution of such **insured contract**. Solely for the purpose of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an **Insured** are deemed to be **damages** because of **personal and advertising injury** provided:
 - (a) liability to such party for, or for the cost of, that party's defense has also been assumed in such **insured contract**; and
 - (b) such attorney fees and litigation expenses are for defense of such party against a civil or alternative dispute resolution proceeding in which covered **damages** are alleged.



Technology General Liability Extension Endorsement

- B. Solely for the purpose of the coverage provided by this paragraph, **DEFINITIONS** is amended to delete the definition of **insured contract** in its entirety, and replace it with the following:

Insured contract means that part of a written contract or written agreement pertaining to the **Named Insured's** business under which the **Named Insured** assumes the tort liability of another party to pay for **personal or advertising injury** arising out of the offense of false arrest, detention or imprisonment. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

- C. Solely for the purpose of the coverage provided by this paragraph, the following changes are made to the Section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**:

1. Paragraph 2.d. is replaced by the following:

d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph 2.f.(2)(b) is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Notwithstanding the provisions of Paragraph e.(2) of the Contractual Liability exclusion (as amended by this Endorsement), such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

- D. This **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

17. PROPERTY DAMAGE – ELEVATORS

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs (3), (4) and (6) of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.

- B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

18. SUPPLEMENTARY PAYMENTS

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- A. Paragraph 1.b. is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
- B. Paragraph 1.d. is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

19. PROPERTY DAMAGE - PATTERNS MOLDS AND DIES

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraphs (3) and (4) of the Exclusion entitled **Damage to Property**, but only with respect to patterns, molds or dies that are in the care, custody or control of the **Insured**, and only if such patterns, molds or dies are not being used to perform operations at the time of loss. A limit of insurance of \$25,000 per **policy period** applies to this **PROPERTY DAMAGE - PATTERNS MOLDS AND DIES** coverage, and this limit:

- A. is included within the General Aggregate Limit as described in **LIMITS OF INSURANCE**; and
- B. applies excess over any valid and collectible property insurance available to the **Insured**, including any deductible applicable to such insurance; the **Other Insurance** condition is changed accordingly.



Technology General Liability Extension Endorsement

20. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

21. WAIVER OF SUBROGATION - BLANKET

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage or personal and advertising injury** giving rise to the claim.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

INSURED: IXL Learning, Inc.

POLICY#: 6079015698

POLICY PERIOD: 08/21/2021

TO: 08/21/2022



EXTENDED COVERAGE - BA PLUS - FOR HIRED AND NON-OWNED AUTOS

It is understood and agreed that this endorsement amends the BUSINESS AUTO COVERAGE FORM as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement to such provision do not apply.

TABLE OF CONTENTS

- I. AMENDMENTS TO LIABILITY COVERAGE
 - A. Who Is An Insured
 - 1. Majority Owned Corporations
 - 2. Newly Acquired Organizations
 - 3. Additional Insureds Required By Written Contracts
 - 4. Employee-Hired Autos
 - B. Increased Loss of Earnings Allowance
 - C. Fellow Employee Coverage
- II. AMENDMENTS TO PHYSICAL DAMAGE COVERAGE
 - A. Increased Loss of Use Expense
 - B. Broadened Electronic Equipment Coverage
- III. AMENDMENTS TO BUSINESS AUTO CONDITIONS
 - A. Knowledge of Accident or Loss
 - B. Knowledge of Documents
 - C. Waiver of Subrogation
 - D. Unintentional Failure To Disclose Hazards
 - E. Primary and Non-Contributory When Required By Contract
- IV. AMENDMENTS TO DEFINITIONS
 - A. Broadened Bodily Injury

I. AMENDMENTS TO LIABILITY COVERAGE

A. Amendments to Who Is An Insured

Under SECTION II – COVERED AUTOS LIABILITY COVERAGE, the paragraph entitled Who Is An Insured is amended to add the following:

1. Majority Owned Corporations

Any incorporated entity in which you own a majority of the voting stock on the inception date of this Coverage Form is an "insured", but only if such entity is not an "insured" under any other liability "policy" that provides "auto" coverage.

2. Newly Acquired Organizations

Any organization you newly acquire or form during the policy period, other than a limited liability company, partnership or joint venture, and in which you maintain majority ownership interest is an "insured", but only if such organization is not an "insured" under any other liability "policy" that provides "auto" coverage. The insurance afforded by this provision:

- a. Is effective on the date of acquisition or formation of the organization, and applies until:
 - (1) The end of the policy period of this Coverage Form; or
 - (2) The next anniversary of this Coverage Form's inception date,whichever is earlier; and
- b. Does not apply to "bodily injury" or "property damage" caused by an "accident" that occurred before you acquired or formed the organization.

3. Additional Insureds Required By Written Contract

Any person or organization that you are required by written contract to make an additional insured under this insurance is an "insured", but only with respect to that person or organization's legal liability for acts or omissions of a person who qualifies as an "insured" for Liability Coverage under **Section II – Who Is An Insured** of this Coverage Form.

4. Employee-Hired Autos

Any "employee" of yours is an "insured" while operating with your permission an "auto" hired or rented under a contract in that "employee's" name, while performing duties related to the conduct of your business.

With respect to provisions **A.1.** and **A.2.** above, "policy" includes those policies that were in force on the inception date of this Coverage Form, but:

- i. Which are no longer in force; or
- ii. Whose limits have been exhausted.

B. Increased Loss of Earnings Allowance

Under **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, the paragraph entitled **Coverage Extensions** is amended under **Supplementary Payment** subparagraph (4) to delete the \$250 a day limit for loss of earnings and replace it with a \$500 a day limit.

C. Fellow Employee Coverage

Under **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Fellow Employee**.

II. AMENDMENTS TO PHYSICAL DAMAGE COVERAGE

A. Increased Loss of Use Expense

Under **SECTION III – PHYSICAL DAMAGE COVERAGE**, the paragraph entitled **Coverage Extensions** is amended under **Loss of Use Expenses** to delete the maximum of \$600, and replace it with a maximum of \$800.

B. Broadened Electronic Equipment Coverage

Under **SECTION III – PHYSICAL DAMAGE COVERAGE**, the paragraph entitled **Exclusions** is amended to delete paragraphs 5.a through 5.d. in their entirety, and replace them with the following

- 5. Exclusions 4.c. and 4.d. above do not apply to "loss" to any electronic equipment that at the time of "loss" is:
 - a. Permanently installed in or upon a covered "auto", nor to such equipment's antennas or other accessories used with such equipment. A \$100 deductible applies to this provision, and supersedes any otherwise applicable deductible; or
 - b. Designed to be operated solely by use of the power from the "auto's" electrical system and is:
 - (1) Removable from a housing unit which is permanently installed in or upon the covered "auto";
 - (2) An integral part of the same unit housing any electronic equipment described in paragraphs a. or b.(1) above; or
 - (3) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

III. AMENDMENTS TO BUSINESS AUTO CONDITIONS

A. Knowledge of Accident or Loss

Under **BUSINESS AUTO CONDITIONS**, the **Loss Condition** entitled **Duties In the Event of Accident, Claims, Suit, or Loss** is amended to add the following subparagraph a.(4):

- (4) If your "employees" know of an "accident" or "loss", this will not mean that you have such knowledge until such "accident" or "loss" is known to a natural person Named Insured, to a partner, executive officer, manager or member of a Named Insured, or to an "employee" designated by any of the above to be your insurance manager.

B. Knowledge of Documents

Under **BUSINESS AUTO CONDITIONS**, the **Loss Condition** entitled **Duties In the Event of Accident, Claims, Suit, or Loss** is amended to add the following subparagraph b.(6):

- (6) If your "employees" know of documents concerning a claim or "suit", this will not mean that you have such knowledge until such documents are known to a natural person Named Insured, to a partner, executive officer, manager or member of a Named Insured, or to an "employee" designated by any of the above to be your insurance manager.

C. Waiver of Subrogation

Under **BUSINESS AUTO CONDITIONS**, the **Loss Condition** entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an "accident" or "loss."

D. Unintentional Failure To Disclose Hazards

Under **BUSINESS AUTO CONDITIONS**, the **General Condition** entitled **Concealment, Misrepresentation or Fraud** is amended to add the following:

Your failure to disclose all hazards existing on the inception date of this Coverage Form shall not prejudice you with respect to the coverage provided by this insurance, provided such failure or omission is not intentional.

E. Primary and Non-Contributory When Required By Contract

Under **BUSINESS AUTO CONDITIONS**, the **General Condition** entitled **Other Insurance** is amended to add the following:

Notwithstanding provisions 5.a. through 5.d. above, the coverage provided by this Coverage Form shall be on a primary and non-contributory basis when required to be so by a written contract entered into prior to "accident" or "loss."

IV. AMENDMENTS TO DEFINITIONS

A. Broadened Bodily Injury

Under **DEFINITIONS**, the definition of "bodily injury" is deleted and replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including death, mental anguish or mental injury sustained by that person which results as a consequence of the physical injury, sickness or disease.

All other terms and conditions of the Policy remain unchanged.

INSURED: IXL Learning, Inc.

POLICY #: 6079015703

POLICY
PERIOD:

08/21/2021

TO: 08/21/2022



BLANKET WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS

This endorsement changes the policy to which it is attached.

It is agreed that **Part One - Workers' Compensation Insurance G. Recovery From Others** and **Part Two - Employers' Liability Insurance H. Recovery From Others** are amended by adding the following:

We will not enforce our right to recover against persons or organizations. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

PREMIUM CHARGE -

The charge will be an amount to which you and we agree that is a percentage of the total standard premium for California exposure. The amount is Waiver of Subrogation %.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.