

XI. CC

**TEACHING CHANNEL TEAMS
SITE AGREEMENT: Malverne Teacher Center**

This Teaching Channel Teams Site Agreement (together with the attached Terms and Conditions and the Service Order, this "Agreement") is effective as of 01 September, 2015 (the "Effective Date") between Teaching Channel, with an address of 2201 Broadway, Suite 400, Oakland, CA 94612 ("Tch") and Malverne Teacher Center, with an address of 48 Webster St, Malverne, NY. 11565 ("Subscriber"). Tch owns and operates a web site and service currently located at www.teachingchannel.org (the "Tch Site") that provides a resource for educators. Tch also offers schools, districts, and education organizations the ability to access Teaching Channel Teams, a private collaboration platform for enabling teachers and teacher leaders to work together, which includes a robust library of videos that the organization can add to and customize. Subscriber desires that Tch create such a private area for Subscriber's users and content (the "Teams Site").

1. Teams Site: Subscriber will provide to Tch those Subscriber trademarks, logos and other branding attributes (the "Subscriber Assets") as may be needed for use in creating and maintaining the Teams Site. Subscriber will source, create and maintain the activity and all curriculum enhancements, teacher text, video, images, and other content in whatever media provided by or on behalf of Subscriber and/or its users for the Teams Site, including the Subscriber Videos and User Videos (collectively, the "Subscriber Content"). Subscriber may upload up to 50 Subscriber produced videos ("Subscriber Videos") to the video library within the "Video" section of the Teams Site for display via Tch's custom video player. In addition, Subscriber may substitute (remove and replace in equal number) up to 25% of such Subscriber Videos during the Term. Tch may limit the frequency or volume of new uploads and/or substitute Subscriber Videos, on prior notice to Subscriber. Subscriber will be responsible for tagging each of the Subscriber Videos and cooperating with Tch in connection with the upload/posting process. In addition to the Subscriber Videos, Subscriber and users of the Teams Site can upload user generated videos ("User Videos") to the areas of the Teams Site outside of the video library (such as "Groups", "Resources" and personal "Workspaces"), which will not be subject to the foregoing limitations. Subscriber agrees and acknowledges that Tch owns all right, title and interest in and to the Tch Site and the Teams Site, excluding the Subscriber Assets and Subscriber Content. Subscriber further acknowledges that Tch has the unlimited right to create and provide Teams sites (including similar to the Teams Site) to third parties without restriction. Users of the Teams Site must become registered members of the Tch Site pursuant to the Tch privacy policy then in effect, and all such user information will be owned by Tch and governed by its privacy policy.

2. Teams Site License; Services: (a) Subject to the terms and conditions of this Agreement, Tch grants to Subscriber a non-transferable license during the Term to allow Authorized Users (as defined below) to access and use (without the right to sublicense), on a confidential, password-restricted basis, the Teams Site via the Internet. Subscriber may only allow the specified number of Authorized Users to access the Teams Site. "Authorized Users" means up to the number of concurrent individual end users of the Teams Site listed on the service order attached hereto (the "Service Order"), such as Subscriber teachers, coaches and administrators, for whom Subscriber has provided Tch with authentication credentials, and up to 3 administrative users ("Admin Users") who will have access to upload and manage content and functionalities within the Teams Site. Subscriber may replace or substitute Authorized Users by providing Tch authorization credentials for the replacement or substitute Authorized Users. Subscriber and each Authorized User are jointly responsible for maintaining the security of its password and account access for the Teams Site. Subscriber will be responsible for compliance with the Terms of Use for the Tch Site and Teams Site (collectively, the "Terms and

Conditions”) by Subscriber and each of its Authorized Users. Subscriber acknowledges that the Terms of Use apply with respect to both Subscriber and each Authorized User in connection with the Teams Site and all activities under this Agreement, and the Terms and Conditions are incorporated herein. Subscriber grants to Tch a non-transferable license during the Term to (i) copy, modify, display, distribute and use the Subscriber Assets in connection with co-branding the Teams Site; and (ii) copy, cache, store, reproduce, perform, display, use, distribute, transmit and make available the Subscriber Content within the Teams Site.

(b) Subscriber will not, directly or indirectly (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Teams Site or Tch Site; (ii) modify, translate, or create derivative works based on the Teams Site or the Tch Site; or (iii) use the Teams Site for the benefit of a third party.

(c) Subscriber may engage Tch to provide certain professional services in connection with the Teams Site to the extent described in the Service Order (the “Services”).

3. Term; Termination: The term of this Agreement begins on the Effective Date and continues for a period of Months (12) months ending on 01, September, 2015 (the “Term”), unless terminated earlier as permitted herein. Either party may terminate this Agreement prior to the end of the Term if the other party (i) is in breach of its obligations under this Agreement which has not been cured (if capable of cure) within fifteen (15) days after notice from the non-breaching party, provided that a breach of the Terms of Use shall have a two (2) day cure period; or (ii) ceases to conduct business in the ordinary course or is declared insolvent or bankrupt, or makes an assignment of substantially all of its assets for the benefit of creditors, or a receiver is appointed, or any proceeding is demanded by, for or against the other party under any provision of bankrupt or insolvency legislation, which is not dismissed within sixty (60) days. Sections 2(b) and the last two sentences of this Section 3, Sections 4 and 5, the Terms and Conditions attached hereto and the Terms and Conditions will survive termination or expiration of this Agreement, as well as any other provisions which by their terms or sense are intended to survive. Upon expiration or termination of this Agreement, Tch will cease operation of the Teams Site and cease provision of the Services, Subscriber will cease all use of the Teams Site and, and each party shall cease use of the other party’s Confidential Information, and will destroy or return (at the Discloser’s option) any Confidential Information to the Discloser.

4. Fees: Subscriber agrees to pay Tch the fees as stated in the Service Order (s) (the “Fees”) for the Teams Site and Services for the Term. The Fees will be invoiced by Tch on the Effective Date and will be due within thirty (30) days of invoice. If Subscriber fails to make timely payments of Fees owed, Tch shall have the right (in addition to its other remedies) to suspend and/or terminate access to the Teams Site and cease provision of the Services until all outstanding Fees are paid in full. Fees exclude all sales, value-added, use, or other taxes and obligations, all of which Subscriber shall pay in full, except for taxes based on Tch’s net income.

5. Publicity: Subscriber grants Tch the right to identify Subscriber as a client of Tch in Tch’s marketing and promotional materials, including press releases. Any and all other uses of either party’s name shall be subject to the prior review and approval of the owning party, such approval not to be unreasonably withheld.

TERMS and CONDITIONS

A. General: These Terms and Conditions are part of the Teaching Channel Teams Site Agreement (together referred to as the "Agreement").

B. Limitation of Liability: (I) THE TEAMS SITE, INCLUDING ALL FUNCTIONS THEREOF, AND SERVICES ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR THAT THE TEAMS SITE OR SERVICES WILL BE SECURE, UNINTERRUPTED, TIMELY OR ERROR-FREE. IN NO EVENT SHALL TCH AND ITS OWNERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS (EACH A "TCH PARTY") BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH USE OF, OR INABILITY TO USE ALL OR ANY PORTION OF THE TEAMS SITE OR SERVICES, UNAUTHORIZED ACCESS TO OR ALTERATION OF CONTENT AVAILABLE ON THE TEAMS SITE, INCLUDING WITHOUT LIMITATION LOST PROFITS.

(II) IN NO EVENT SHALL TCH PARTY'S TOTAL LIABILITY TO SUBSCRIBER FOR ANY AND ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR OTHERWISE), ARISING FROM THIS AGREEMENT OR USE OF THE TEAMS SITE OR SERVICES, EXCEED, IN THE AGGREGATE, THE TOTAL FEES RECEIVED BY OR PAYABLE TO TCH FROM SUBSCRIBER UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY. THE PARTIES AGREE THAT THE LIMITATIONS AND EXCLUSIONS OF LIABILITY AND DISCLAIMERS SPECIFIED IN THIS AGREEMENT WILL SURVIVE AND APPLY EVEN IF FOUND TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

C. Confidentiality: In connection with this Agreement, each party (Discloser") may disclose to the other party ("Recipient") information that is confidential, non-public or proprietary, including, without limitation, financial information, the specific terms of this Agreement, past and present operations, products, future plans and strategy (collectively, "Confidential Information"). Recipient shall take reasonable measures to protect the confidentiality of the Confidential Information of the Discloser and shall not disclose or make such Confidential Information available to any third party (except for such personnel or professional advisors who have a need to know and have agreed to keep such information confidential ("representatives") and except to the extent necessary to comply with law or the valid order of a court of competent jurisdiction in which event Recipient shall seek confidential treatment of such information). Each Recipient will be responsible for compliance with this section by its representatives.

D. Notices: All notices to either party pursuant to this Agreement shall be sent to at the address stated at the top of this Agreement, or to any other address designated by a party pursuant to this Section. Notices are deemed given on receipt if sent by messenger, overnight delivery service, or US certified mail, return receipt requested.

E. Miscellaneous: This Agreement is governed by the laws of the State of California, without reference to conflict of law principles. Each party irrevocably consents to the exclusive jurisdiction and venue of the state and federal courts in Alameda County, CA in connection with any action relating to this Agreement. Each party shall comply with all applicable laws, rules and regulations of the United States and any other applicable foreign agency or authority in connection with its performance of this

Agreement. This Agreement may be amended only by a writing signed by the parties. A failure or delay in exercising any right hereunder will not be considered a waiver thereof unless expressly waived in writing and signed by the waiving party. No single waiver will be considered a continuing or subsequent waiver. If a court of competent jurisdiction finds any provision of this Agreement unenforceable, all other provisions will remain in full force and effect and the unenforceable provision will be replaced with an enforceable provision that most nearly achieves the intent and economic effect of the unenforceable provision. Neither party may assign this Agreement in whole or in part without the prior consent of the other party, except that Tch may assign to any successor in interest to its business to which this Agreement relates. This Agreement, together with the Terms of Use and privacy policy, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous understandings or agreements of the parties related thereto. Nothing in this Agreement will create any association, partnership, or joint venture between the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Agreement. The parties may execute this Agreement in counterparts, including facsimile, PDF and other electronic copies, which taken together will constitute one instrument. Except as to the payment of any sums due, neither party will be liable to the other for any failure to perform, or delay in the performance of, any obligation under this Agreement caused by circumstances beyond its reasonable control, including but not limited to, acts of Nature, fire, labor difficulties, or governmental action.

TEACHING CHANNEL

**SUBSCRIBER:
Malverne Teacher Center**

By:

By:

Name: Rob Bayuk

Name:

Title: General Manager

Title:

Date:

Date:

If not using EchoSign to execute this agreement, please return a signed scanned or faxed copy to the attention of:

Rob Bayuk
Teaching Channel
rbayuk@teachingchannel.org email
510-254-3354 fax
206-669-6977 mobile

TEACHING CHANNEL TEAMS - SERVICE ORDER