



## MASTER SERVICES AGREEMENT

Last updated as of January 1, 2020

THIS MASTER SERVICES AGREEMENT GOVERNS CUSTOMER'S USE OF POWERSCHOOL PRODUCT(S) (AS DEFINED BELOW) AND IS AN AGREEMENT BETWEEN CUSTOMER AND THE APPLICABLE POWERSCHOOL CONTRACTING ENTITY SPECIFIED IN SECTION 1 BELOW. CAPITALIZED TERMS HAVE THE DEFINITIONS SET FORTH HEREIN.

BY ACCEPTING THIS AGREEMENT, EITHER BY: (1) EXECUTING A QUOTE THAT REFERENCES THIS AGREEMENT; (2) BY EXECUTING A COPY OF THIS AGREEMENT DIRECTLY; OR (3) ACCESSING THE POWERSCHOOL PRODUCT(S). THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY AND REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS. THE TERM "CUSTOMER," AS FURTHER DEFINED BELOW, WILL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MUST NOT USE POWERSCHOOL PRODUCT(S).

### 1. DEFINITIONS.

**1.1 "Account Country"** is the country associated with the Customer account. If Customer has provided a valid tax registration number for Customer's account, then Customer's Account Country is the country associated with such tax registration. If Customer has not provided a valid tax registration, then Customer's Account Country is the country where the Customer billing address is located.

**1.2 "Agreement"** means this Master Services Agreement and all referenced exhibits.

**1.3 "Customer"** means the school, school district or other entity obtaining subscription access to PowerSchool's Subscriptions Services, licenses a Licensed Product(s), or purchases PowerSchool Services.

**1.4 "De-identified Data"** means data originally derived from Customer data where personally identifiable information and other similar attributes about such data have been removed so that no individual identification can be made.

**1.5 "Documentation"** means all written user information, whether in electronic, printed or other format, delivered or made available to Customer by PowerSchool with respect to PowerSchool Product(s), now or in the future, including instructions, manuals, training materials, and other publications that contain, describe, explain, or otherwise relate to PowerSchool Product(s).

**1.6 "Embedded Applications"** means software developed by third parties that resides within the

software developed by PowerSchool as part of the PowerSchool Product(s) and performs a very specific set of functions, pursuant to [Exhibit E \(Product Specific Terms\)](#).

**1.7 "Hosting Services"** means the hosting of the Customer's PowerSchool Product(s) and Third Party Software by PowerSchool or its hosting providers from a server farm that is comprised of application, data and remote access servers used to store and run the PowerSchool Product(s) and Third Party Software, including associated offline components, as further detailed in [Exhibit C \(Hosting Services Policy\)](#).

**1.8 "Intellectual Property Rights"** means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how, other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.

**1.9 "Licensed Product(s)"** means all software (including Embedded Applications) provided by PowerSchool to Customer via an on-premise license and subsequent versions provided under Support Services and all related Documentation provided to Licensee pursuant to this Agreement, now or in the future; provided, however, that Licensed Product(s) will not include any Third Party Software.

**1.10 "Licensed Site(s)"** means the internet address of the web-based, PowerSchool



Product(s) whether hosted as a SaaS solution or hosted on-premise by the Customer or their third party vendor listed on a PowerSchool Quote.

**1.11** “*Licensee*” means the school, school district or other entity licensing a Licensed Product(s) for an on-premise usage.

**1.12** “*Parties*” means the PowerSchool Contracting Entity and the Customer of the PowerSchool Product(s).

**1.13** “*PowerSchool Contracting Entity*” “PowerSchool” means the entity identified in the table below, based on your Account Country.

Account Country	PowerSchool Contracting Entity	Mailing Address
Canada	PowerSchool Canada ULC	PowerSchool Canada ULC 150 Parkshore Drive, Folsom, CA 95630
United States	PowerSchool Group LLC	PowerSchool Group LLC 150 Parkshore Drive, Folsom, CA 95630
Any other country that is not Canada or the United States	PowerSchool Group LLC	PowerSchool Group LLC 150 Parkshore Drive, Folsom, CA 95630

**1.14** “*PowerSchool Product(s)*” means any Licensed Product(s), Subscription Service(s), or other product or Services provided to Customer and described on a Quote

**1.15** “*Professional Services*” means the services which may be further discussed and described through a Statement of Work or Quote, pursuant to [Exhibit B \(Professional Services Policy\)](#) of this Agreement.

**1.16** “*Provincial Reporting Code (or PRC)*” means PowerSchool Product(s) that may be available only to Canadian-based Customers to assist Customer in meeting specific provincial reporting requirements and that is designated as Provincial Reporting Code by PowerSchool.

**1.17** “*Quote*” means PowerSchool’s standard order form that (i) specifies the PowerSchool Product(s) and other Services provided to Customer; (ii) references this Agreement; and (iii) is signed or incorporated to a signed agreement by authorized representatives of both Parties and deemed incorporated into the Agreement.

**1.18** “*SaaS*” means the acronym for the phrase “software as a service”.

**1.19** “*Services*” means any combination

of the following: a) Support Services, b) Hosting Services, and/or c) Professional Services.

**1.20** “*Subscription Service(s)*” means all SaaS software (including Embedded Applications) and subsequent versions provided under Support Services and all related Documentation provided to Customer pursuant to this Agreement, now or in the future; provided, however, that Subscription Services will not include any Third Party Software.

**1.21** “*Support Services*” is defined in [Exhibit A \(Support Policy\)](#).

**1.22** “*State Reporting Code (or SRC)*” means PowerSchool Product(s) that may be available to Customer to assist Customer in meeting specific state reporting requirements and that is designated as State Reporting Code by PowerSchool.

**1.23** “*Statement of Work*” or “*SOW*” means any Professional Services project made between the Parties which references and incorporates the terms of this Agreement, and sets out the details of a particular project, including, without limitation, any applicable (i) methodologies; (ii) project responsibilities; or (iii) estimated or actual pricing.

**1.24** “*Term*” means the duration of the Agreement as described in section 11.1.

**1.25** “*Third Party Software*” means software products supplied or developed for a particular purpose by someone other than the PowerSchool Contracting Entity and is not licensed by PowerSchool. Third Party Software will not include Embedded Applications as defined herein. For clarity, PowerSchool licenses the Embedded Applications to Customer as part of Subscription Services and Licensed Products, whereas PowerSchool is not the licensor of Third Party Software.

**1.26** “*Transaction Data*” mean system usage information of a user who progresses through the applications and functions of a PowerSchool Licensed Product and other third party systems to which the user authorizes.

**1.27** “*User(s)*” means individuals authorized by the Customer who access and utilize PowerSchool Product(s). Users will include authorized representatives of the Customer, teachers, students, parents and/or student guardian(s), and applicants as applicable to the respective PowerSchool Product(s).

**2. POWERSCHOOL PRODUCT SUBSCRIPTION.** The type of subscription or license grant applicable to Customer will be specified in the Quote.

**2.1 SUBSCRIPTION SERVICE.** Subject to this Agreement and the applicable portions of the Privacy Policy located at <http://www.powerschool.com/privacy>, as such policies may be updated from time to time, PowerSchool will (a) make the Subscription Services available to Customer and for the contracted number of Users at the Licensed Site(s) to and in conformance with the applicable Documentation; (b) provide applicable PowerSchool standard support for the Subscription Services to Customer and Users, and upgraded support if purchased, as described in [Exhibit A \(Support Policy\)](#); (c) use commercially reasonable efforts to make the Subscription Services available, except for: (i) planned downtime (of which PowerSchool will give advance electronic notice), and (ii) any force majeure event as described in **Section 14.3.2 (Force Majeure)**, internet service provider failure or delay, Third Party Software, or denial of service attack; and (d) provide the Services in accordance with its policies, existing laws and government regulations applicable to PowerSchool's provision of its Subscription Services to its customers generally (i.e., without regard for Customer's particular use of the Subscription Services). All rights not expressly granted to Customer herein are expressly reserved by PowerSchool.

**2.2 LICENSE GRANT.** Where the Customer is contracts for an on-premises deployment of a Licensed Product, PowerSchool, during the term stated in the Quote, grants the Customer a restricted, personal, non-exclusive, non-transferable, terminable access to use such Licensed Product specified in PowerSchool's Quote, only at the Licensed Sites, not to exceed the maximum student enrollment as set forth in **Section 7 (Pricing, Enrollment Increases)** of this Agreement. As part of the Licensed Product, PowerSchool will provide the Support Services and Professional Services mutually agreed upon via a Statement of Work. Licensed Product will only be used as expressly authorized by this Agreement. All rights not expressly granted to Customer herein are expressly reserved by PowerSchool.

**2.3 Restrictions on Subscription Services and Licensed Product.** The PowerSchool Product(s) may not be accessed by

PowerSchool's competitors, except with PowerSchool's prior written consent.

**2.3.1** Customer will use the PowerSchool Product(s) only for the internal business purposes of Customer and not: (a) to store or transmit malicious code, (b) interfere with or disrupt the integrity or performance of PowerSchool Product(s) or third-party data contained therein or any systems or networks; or (c) violate the regulations, policies, or procedures of such networks used with the PowerSchool Product(s), or (d) attempt to gain unauthorized access to a PowerSchool Product or its related systems or networks, the PowerSchool data or the data of any other PowerSchool customer.

**2.3.2** In no event may PowerSchool Product(s): (a) be used other than at the Licensed Sites; (b) exceed the maximum User count for the PowerSchool Product as stated in the Quote; (c) be used to perform service bureau functions for third parties, or to process or manage data for websites other than the Licensed Sites; (d) be made available via a network or otherwise to any school, school district or third party other than the Licensed Sites; or (e) be accessed for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

**2.3.3** Customer will ensure its Users will not, and itself will not, whether through any affiliate, employee, consultant, contractor, agent or other third party: (a) sell, resell, distribute, host, lease, rent, license or sublicense, in whole or in part, the PowerSchool Product(s); (b) decipher, decompile, disassemble, reverse assemble, modify, translate, reverse engineer or otherwise attempt to derive source code, algorithms, tags, specifications, architecture, structure or other elements of the PowerSchool Product(s), in whole or in part, for any purposes or otherwise; (c) write or develop any derivative works based upon the PowerSchool Product(s). Customer will hold PowerSchool harmless from claims for damages resulting from Customer's misuse of the PowerSchool Product(s), including PowerSchool's Intellectual Property Rights. Customer will use commercially reasonable efforts to prevent unauthorized access to, or use of, the PowerSchool Product(s), and notify PowerSchool promptly of any such unauthorized access or use. Customer will



not transfer, assign, provide or otherwise make PowerSchool Product(s) or Services available to any other party without the prior written consent of PowerSchool. Any attempted sublicense, assignment, or transfer of any rights, duties or obligations by Customer in violation of this Agreement will be void.

### 3. PROPRIETARY RIGHTS

**3.1 Intellectual Property Rights.** PowerSchool alone owns all rights, titles and interests, including all related Intellectual Property Rights, in and to the PowerSchool Product(s) and Services. This Agreement is not a sale and does not convey to Customer any rights of ownership in or related to the PowerSchool Product(s) and Services, or the Intellectual Property Rights owned by PowerSchool. Customer will not accrue any residual rights to the PowerSchool Product(s), including any rights to the Intellectual Property Rights in connection therewith.

**3.2 Trademarks.** The PowerSchool name, the PowerSchool logo, product names associated with the PowerSchool Product(s) and any other marks, logos, designs, sound, trade dress, etc. are trademarks of PowerSchool, and no right or license is granted by this Agreement to their use.

**3.3 Confidentiality.** To the extent allowed under applicable law, Customer agrees that the terms of this Agreement, including all pricing for PowerSchool Product(s) and Services, must be kept confidential and not disclosed to any third party without the prior written consent of PowerSchool. Customer agrees that PowerSchool may publicly refer to Customer (both in writing and orally) as a client, and may identify Customer as a client, among other places, on its website, in press releases, and in sales materials and presentations. Customer agrees to keep PowerSchool Product(s) confidential and to prevent unauthorized disclosure or use of PowerSchool Product(s) in Customer's possession. Customer will notify PowerSchool immediately in writing of any unauthorized use or distribution of PowerSchool Product(s) of which Customer becomes aware and will take all steps necessary to ensure that such unauthorized use or distribution is terminated. For any PowerSchool Product(s) for which PowerSchool makes available passwords or other user identification technology to access such Subscription Services, Customer will

advise all Users of such passwords or other user identifications that such passwords or user identifications must be maintained in confidence and not transmitted or shared. Customer is solely responsible for maintaining the confidentiality of each username and password used and is solely responsible for any and all activities that occur under all Customer's accounts. Customer agrees to notify PowerSchool immediately of any unauthorized use of Customer's accounts or any other breach of security. PowerSchool will not be liable for any loss that Customer may incur as a result of someone else using Customer's passwords or accounts, either with or without the Customer's knowledge.

PowerSchool agrees to use commercially reasonable efforts to maintain the confidentiality of Customer confidential information that is disclosed to PowerSchool in connection with the performance of Services, and to use such Customer confidential information solely for purposes of performing Services hereunder. De-identified Data used by PowerSchool for internal research, and improvement of PowerSchool Products is not subject to this section's confidentiality obligations. While PowerSchool will not rent or sell information for marketing purposes and will not share or sell Customer data with third parties for marketing purposes, Customer hereby grants PowerSchool permission to use, copy, and/or combine with any De-identified Data the Customer and Users may generate within and through Licensed Products or Subscription Services. PowerSchool will require its employees, agents and subcontractors performing work hereunder to enter into a written agreement with PowerSchool that imposes obligations that are substantially similar to those imposed on PowerSchool hereunder. For purposes of this Section, "Customer confidential information" means any student or personnel data belonging to Customer, or any other Customer information or data labeled or identified as confidential at the time of disclosure, provided, however, that this definition and the obligations of this Section will not extend to any information that: (a) is or becomes publicly known through no fault or negligence of PowerSchool; (b) is or becomes lawfully available from a third party without restriction; (c) is independently developed by PowerSchool; or (d) is disclosed without restriction by Customer to any third party at any time. Customer grants to PowerSchool a non-

exclusive, royalty-free license to use equipment, software, Customer data, or other material of the Customer solely for the purpose of enabling PowerSchool to perform its obligations under the Agreement.

**3.4 Public Record Act.** Notwithstanding anything herein to the contrary in section 3.3, PowerSchool acknowledges that, to the extent Customer is subject to public record acts or freedom of information acts, PowerSchool will work with Customer to provide appropriate information in response to such requests, to the extent such requested information is not PowerSchool's proprietary information or otherwise exempted from disclosure.

**3.5 Customer Data Security and Privacy.** PowerSchool will abide by its policy, as set forth in [Exhibit D \(Data Privacy and Security Policy\)](#) with respect to the security and privacy of its Customer's data within the PowerSchool Product(s).

**3.6 Use of Feedback.** Customer grants to PowerSchool a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into PowerSchool Product(s) and Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Users.

**4. SUPPORT AND OTHER SERVICES.** As part of the PowerSchool Product(s), PowerSchool will provide the Support Services set forth in [Exhibit A \(Support Policy\)](#) and Professional Services mutually agreed upon via a Statement of Work pursuant to [Exhibit B \(Professional Services Policy\)](#). Customer's license of PowerSchool Product(s) does not, by itself, entitle Customer to any support, upgrades, patches, fixes or the like for Subscription Services; Customer must maintain a current Support Services subscription and pay any applicable Support Services fees to be eligible for Support Services. Support Services must be purchased for all licenses in Customer's possession. Support Services may not be purchased or renewed for a subset of such licenses only. Support Services may not be used as a substitute for Professional Services.

**5. FEES AND TAXES.** Customer agrees to pay PowerSchool, in accordance with PowerSchool's invoice terms, the fees charged for the PowerSchool Product(s) and related Services and/or other items ordered by

Customer, together with any other charges made in accordance with this Agreement, and all applicable sales, use or other taxes or duties, however designated, except for taxes based on PowerSchool's net income. Customer agrees to pay for PowerSchool's pre-approved reasonable travel and lodging expenses for Professional Services performed at Customer's premises. If Customer claims tax-exempt status, Customer agrees to provide evidence of such tax exemption to PowerSchool. To the extent that such tax exemption cannot be properly claimed or does not extend to certain taxes or transactions, Customer will be responsible for any and all taxes and assessments that arise from this Agreement and related transactions (except for taxes based upon PowerSchool's net income). Customer will pay a monthly charge of 1.5% (18% annually) on all amounts not paid when due, or, if a lower maximum rate is established by law, then such lower maximum rate. All pricing set forth in any PowerSchool Quote or invoice will be in United States dollars unless otherwise specified.

**6. THIRD PARTY SOFTWARE LICENSE TERMS; EMBEDDED APPLICATIONS; OPEN SOURCE SOFTWARE.** Third Party Software is licensed directly to the Customer pursuant to separate license terms between Customer and the third party supplier. All support, warranties, and services related to Third Party Software are provided by the supplier of the Third Party Software under such third party's terms and conditions, and not by PowerSchool. For clarity, PowerSchool licenses the Embedded Applications to Customer as part of Subscription Services and Licensed Products, whereas PowerSchool is not the licensor of Third Party Software. PowerSchool will have no obligation to provide support for any customized software or any third-party applications not part of the PowerSchool Product(s). Further, PowerSchool will not be responsible for providing support: (i) for problems caused by Customer's use of or access to the PowerSchool Product(s) other than as intended; (ii) for any use in violation of this Agreement; or (iii) for any unauthorized modifications made to the PowerSchool Product(s) by Customer or any third party. In the event the need for Support Services provided are traced to Customer's or a third party's errors, unauthorized use, or system changes, fees and expenses for said Support Services may be billed to Customer at PowerSchool's then



current rates and will be paid promptly by Customer. Only Sections 5, 6, 9 and 12 of this Agreement apply to Third Party Software and any related support and services set forth in this Agreement. In addition, PowerSchool Product(s) may contain Embedded Applications. If any additional license terms are identified in [Exhibit E \(Product Specific Terms\)](#), Customer will comply with such conditions with respect to such applications. Certain Embedded Applications may also be subject to “open source” licensing terms. In some cases, the open source licensing terms may conflict with portions of this Agreement, and to the extent of any such conflict, the open source licensing terms will govern, but only as to the software components subject to those terms. Notwithstanding the foregoing, Customer acknowledges that if any open source software component is licensed under terms that permit Customer to modify such component, and if Customer does so modify such component, then PowerSchool will not be responsible for any incompatibility due to such modifications.

**7. PRICING; ENROLLMENT INCREASES.**

Pricing for access to PowerSchool Product(s) is based on the number of Users at the Licensed Sites. If Customer accesses PowerSchool Product(s) with more than the number of Users purchased as indicated in the Quote, then PowerSchool may submit an amended invoice for the amount of such excess usage, and Customer will pay the fees applicable to the variance within 30 days of the invoice date. Any such increase in Users will be maintained through the end of the then-current term. Such additional fees will be computed by multiplying the then-current per student license and support fees for PowerSchool Product(s) by Customer’s additional User count. Customer’s subsequent Support Services invoices will be based on the increased Users as well.

**8. COMPATIBLE PLATFORMS/HARDWARE.**

Where applicable, Customer will be responsible for obtaining and maintaining all telephone, computer hardware, and other equipment needed for access to and use of the PowerSchool Product(s) and all charges related thereto. Customer is responsible for obtaining and maintaining an appropriate operating environment with the necessary hardware, operating system software and other items required to use and access

PowerSchool Product(s). PowerSchool will not be responsible for any incompatibility between PowerSchool Product(s) and any versions of operating systems, hardware, browsers, or other products not specifically approved in writing by PowerSchool for Customer’s use with PowerSchool Product(s). PowerSchool will make written requirements available to Customer at Customer’s request.

**9. LIMITED WARRANTY.**

PowerSchool warrants that the media on which Licensed Product is recorded will be free from defects in materials and workmanship under normal use for a period of ninety (90) days from the date of purchase. Licensee’s exclusive remedy under this Section will be replacement of the defective media. PowerSchool warrants that for Subscription Services during an applicable subscription term (a) this Agreement, the Quote, and the Documentation will accurately describe the applicable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer’s data, (b) PowerSchool will not materially decrease the overall security of Subscription Services, and (c) PowerSchool will not materially decrease the overall functionality of the Subscription Services. For any claimed breach of a warranty above, the Customer and PowerSchool agree to first negotiate a resolution in good faith; and, if necessary, refer the matter to senior representatives of each Party for timely resolution.

**10. DISCLAIMER OF OTHER WARRANTIES.**

**POWERSCHOOL PRODUCT(S) ARE PROVIDED “AS IS” AND WITHOUT WARRANTY OF ANY KIND (EXCEPT AS PROVIDED IN SECTION 9), AND POWERSCHOOL AND ITS LICENSORS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, POTENTIAL IMPLEMENTATION DELAYS, AND NON-INFRINGEMENT. POWERSCHOOL DOES NOT WARRANT THAT THE FUNCTIONALITY CONTAINED IN THE POWERSCHOOL PRODUCT(S) WILL MEET CUSTOMER’S REQUIREMENTS, OR THAT THE OPERATION OF THE POWERSCHOOL PRODUCT(S) OR HOSTING SERVICES**



**WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE POWERSCHOOL PRODUCT(S) WILL BE CORRECTED. FURTHERMORE, POWERSCHOOL DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE POWERSCHOOL PRODUCT(S) IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, SECURITY, OR OTHERWISE. CUSTOMER AGREES THAT THE USE OF POWERSCHOOL PRODUCT(S) IS AT CUSTOMER'S OWN RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY POWERSCHOOL OR A POWERSCHOOL REPRESENTATIVE WILL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT FULLY APPLY TO CUSTOMER.**

## **11. TERM AND TERMINATION**

**11.1 Term.** This Agreement commences on the date Customer first executes it and continues until the term of all PowerSchool Product(s) or Services provided under any applicable Quote hereunder have expired or have been terminated.

**11.2 Term of Purchased Subscriptions.** The term of each subscription or license will be as specified in the applicable Quote specifying a start and end date. Except as otherwise specified in a Quote, renewal of promotional or one-time priced subscriptions or licenses will be at PowerSchool's discretion.

**11.3 Suspension.** PowerSchool will have the right to suspend performance under this Agreement in the event that Customer is notified, with email notice being sufficient, that it is in breach of any of its obligations under this Agreement and fails to cure the breach within five (5) days of the notice.

**11.4 Termination for Breach.** Either party will have the right to terminate this Agreement in whole or in part upon thirty (30) days written notice to the other party, in the event the other party materially breaches this Agreement and fails to correct such breach within such thirty (30) day period; provided that PowerSchool will have the right to terminate this

Agreement immediately upon written notice in the event that Customer breaches any of its obligations under **Section 2** (PowerSchool Product Subscription) or **Section 3** (Proprietary Rights). Customer further acknowledges that, as breach of the provisions of Section 3 could result in irreparable injury to PowerSchool, PowerSchool will have the right to seek equitable relief against any actual or threatened breach thereof, without proving actual damages.

**11.5 No Termination for Convenience.** Customer is not entitled to terminate this Agreement for any reason other than for the specific reasons set out in this Agreement or as expressly mandated by law. No termination for convenience will be permitted.

**11.6 Termination for Non-Appropriation.** The Parties acknowledge and agree that if Customer is a governmental entity that is bound to statutory provisions that prevent it from committing to the payment of funds beyond its fiscal year, and if funds are not allocated for the PowerSchool Product(s) and Services captured in an applicable Quote that are the subject of this Agreement following the commencement of any succeeding fiscal year during which the Quote may continue, then Customer may terminate the applicable Quote without liability for any termination charges, fees, or penalties at the end of its last fiscal period for which funds were appropriated. Customer will be obligated to pay all charges incurred through the end of the last fiscal period for which funds were appropriated. Customer will give PowerSchool written notice that funds have not been appropriated (a) immediately after Customer receives notice of such non-appropriation; and (b) at least thirty (30) days prior to the effective date of such termination. Customer will not utilize this clause as a right to terminate any Quote nor this Agreement for convenience. PowerSchool reserves the right to seek documentation evidencing such non-appropriation of funds.

**11.7 Effects of Termination.** In the event of any termination of all or any portion of this Agreement, Customer will not be relieved of any obligation to pay any sums of money that have accrued prior to the date of termination. In addition, the provisions of Sections 3, 5, 6, 9, 11, 12, 13, 14 and 13 will survive termination of this Agreement. Immediately upon any termination of a subscription or license for any Subscription Services or Licensed Product under this Agreement, Customer will, at its own expense,



either return to PowerSchool or destroy all copies of such PowerSchool Product(s), and Customer's authorized representative will forward written certification to PowerSchool that all such copies of such PowerSchool Product(s) have either been destroyed or returned to PowerSchool.

**11.8 Liquidated Damages.** In the event that Customer enters into a multi-year Quote with PowerSchool and Customer terminates the contract or any portion thereof, Customer agrees to pay PowerSchool the remaining sum due to PowerSchool through the stated term in the applicable Quote as liquidated damages, as actual damages being impossible to calculate. This clause will not apply in the event Customer terminates this Agreement as (a) a result of PowerSchool's breach in accordance with Subsection 11.4 herein, or (b) as a result of non-appropriation of funds in accordance with Subsection 11.6 herein.

**12. LIMITATION OF LIABILITY. POWERSCHOOL WILL NOT BE LIABLE TO CUSTOMER FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; OR LOST PROFITS, LOST FUNDING, LOST SAVINGS, OR LOST OR DAMAGED DATA; OR FOR CLAIMS OF A THIRD PARTY; ARISING OUT OF THIS AGREEMENT, SUBSCRIPTION SERVICES, SUPPORT, SERVICES, OR OTHER ITEMS PROVIDED, OR THE USE OR INABILITY TO USE ANY OF THE FOREGOING, EVEN IF POWERSCHOOL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY ARE FORESEEABLE. IN ANY EVENT, IN RESPECT OF ANY CLAIM, DEMAND, OR ACTION ARISING OUT OF THIS AGREEMENT, CUSTOMER WILL BE LIMITED TO RECEIVING ACTUAL AND DIRECT DAMAGES IN A MAXIMUM AGGREGATE AMOUNT EQUAL TO THE CHARGES PAID BY CUSTOMER TO POWERSCHOOL HEREUNDER FOR THE APPLICABLE POWERSCHOOL PRODUCT ON WHICH THE CLAIM IS BASED IN THE PREVIOUS TWELVE (12) MONTHS. IN ADDITION, IN NO EVENT WILL THE LIABILITY OF POWERSCHOOL RELATING TO POWERSCHOOL PRODUCT(S) EXCEED THE TOTAL AMOUNT OF MONEY PAID BY CUSTOMER TO POWERSCHOOL DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD WITH RESPECT TO**

**THE PARTICULAR SUPPORT SERVICES OR HOSTING SERVICES, OR PROFESSIONAL SERVICES ON WHICH THE CLAIM IS BASED.**

### **13. INDEMNIFICATION**

**13.1 Indemnification by PowerSchool.** Subject to Section 12 (LIMITATION OF LIABILITY) PowerSchool hereby agrees to defend, indemnify, and hold harmless the Customer from and against any and all losses, liabilities, costs, expenses and damages arising out of or relating to any claim by a third party alleging infringement of any Intellectual Property Rights as to the PowerSchool Product, provided that PowerSchool will have received from Customer (i) prompt written notice of such claim; (ii) the exclusive right to control and direct the investigation, defense and settlement of such claim; and (iii) all reasonable necessary cooperation of Customer.

If Customer's use of the PowerSchool Product is enjoined, PowerSchool may (i) substitute for the PowerSchool Product, a substantially and functionally similar product and documentation; (ii) procure for Customer the right to continue using the PowerSchool Product; or if (i) or (ii) are not possible after reasonable commercial efforts from PowerSchool, then PowerSchool may terminate this Agreement and credit a pro-rated return of unused portion of the subscription.

The foregoing obligation of PowerSchool does not apply to the extent the claim arises from (i) modifications to the PowerSchool Product by anyone other than PowerSchool; (ii) combinations of the PowerSchool Product with products or process not provided or authorized by PowerSchool; or (iii) any unauthorized use, access or distribution of the PowerSchool Product.

**13.2 Indemnification by Customer.** To the extent permitted under applicable law, Customer agrees to indemnify and hold PowerSchool harmless against and from any claim, demand, expenses, or losses, including reasonable legal fees (including but not limited to attorney's fees, costs and expenses), made by any third party against PowerSchool due to or arising out of: (a) Customer's access, use of and/or connection to the PowerSchool Product(s); (b) Customer's sharing of any content obtained through access or use of the PowerSchool Product(s) to any third party; (c) Customer's violation of Section 2 (PowerSchool Products Subscription), or Section 3 (Proprietary



Rights); (d) information Customer sent, submitted, electronically received, accessed, printed, downloaded, or transmitted through the PowerSchool Product(s); or (e) Customer's gross negligence or willful misconduct.

**14. GENERAL**

**14.1 Governing Law.** THIS AGREEMENT WILL BE GOVERNED BY THE LAWS DEPENDING UPON THE ACCOUNT'S COUNTRY LOCATION AS LISTED IN THE TABLE BELOW. THE VENUE LISTED IN THE TABLE WILL BE THE EXCLUSIVE COURTS OF JURISDICTION AND VENUE FOR ANY LITIGATION, SPECIAL PROCEEDING OR OTHER PROCEEDING AS BETWEEN THE PARTIES THAT MAY BE BROUGHT, OR ARISE OUT OF, IN CONNECTION WITH, OR BY REASON OF THIS AGREEMENT. EACH PARTY HEREBY CONSENTS TO THE JURISDICTION OF SUCH COURTS. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. This Agreement will not be subject to the Uniform Computer Information Transactions Act.

Account Country	Venue	Governing Law
Canada	Victoria	Province of Ontario
United States	San Francisco	California
Any other country that is not Canada or the United States	San Francisco	California

**14.2 Compliance Verification.** During the term of the Agreement and for a period of one year following its termination, PowerSchool has the right to verify Customer's full compliance with the terms and requirements of the Agreement. Customer must (a) provide any assistance reasonably requested by PowerSchool or its designee in conducting any such audit, (b) make requested personnel, records, and information available to PowerSchool or its designee, and (c) in all cases, provide such assistance, personnel, records, systems access and information in an expeditious manner to facilitate the timely

completion of such compliance verification. If such verification process reveals any noncompliance, Customer must promptly cure any such noncompliance; provided, however, that the obligations under this section do not constitute a waiver of PowerSchool's termination rights and do not affect PowerSchool's right to payment for access to PowerSchool Product(s) and Services and interest fees related to usage in excess of the quantities purchased.

**14.3 General Provisions.**

**14.3.1 Amendment.** This Agreement may only be amended or modified by a writing specifically referencing the particular Section(s) of this Agreement to be modified and signed by authorized representatives of the Parties.

**14.3.2 Force Majeure.** PowerSchool will not be deemed in default of this Agreement for delays or failure in performance resulting from acts beyond its reasonable control, including but not limited to, default by subcontractors or suppliers, failure of Customer to provide promptly to PowerSchool accurate information and materials, as applicable, acts of God or of a public enemy, acts of terrorism, United States or foreign governmental acts in either a sovereign or contractual capacity, labor, fire, power outages, road icing or inclement conditions, flood, epidemic, restrictions, strikes, and/or freight embargoes.

**14.3.3 Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable, that provision must be severed or reformed to be enforceable, and the remaining provisions hereof and thereof will remain in full force. No delay or omission by PowerSchool in the exercise or enforcement of any of its powers or rights hereunder will constitute a waiver of such power or right. A waiver by PowerSchool of any provision of this Agreement must be in writing and signed PowerSchool and will not imply subsequent waiver of that or any other provision.

**14.3.4 Payments.** Customer agrees that its payment and other obligations under this Agreement are absolute and unconditional and not subject to any abatement, reduction, setoff, defense, counterclaim, or recoupment due or alleged to be due as a result of any past or future claim that Customer may have against PowerSchool.

Customer agrees that it will use its best efforts to cooperate with PowerSchool, and will execute and deliver any and all documents in addition to those expressly provided for herein that may be necessary or appropriate to afford PowerSchool the opportunity to adequately provide the PowerSchool Product(s) and Services. Payment terms are defined in the applicable Quote.

**14.3.5 Time to Bring Action.** To the extent allowed under applicable law, Customer may bring no action arising out of this Agreement, regardless of form, more than one (1) year after the cause of action has arisen.

**14.3.6 Notices.** All notices under this Agreement must be in writing and delivered by overnight delivery service or certified mail, return receipt requested, with a copy by email. Notices delivered personally are deemed given upon documented receipt or refusal by recipient to accept receipt. In the case of notices to PowerSchool, such notices must be sent to:

**PowerSchool Group LLC,  
Attn: General Counsel  
150 Parkshore Drive,  
Folsom, CA 95630**

In the case of notices to Customer, such notices will be sent to PowerSchool's address of record for Customer. Either party may change its notice address by notifying the other in like manner.

**14.3.7 Assignment.** Neither PowerSchool or Customer may make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the other; provided, however, that PowerSchool may assign its rights and obligations under this Agreement without the consent of the Customer in the event PowerSchool hereafter effects a corporate reorganization, consolidates with, or merges into, any person or transfers all or substantially all of its properties or assets to any entity. This Agreement will inure to the benefit of and be binding upon the Parties, their respective successors, executors, administrators, heirs and permitted assignees.

**14.3.8 Facilities.** Customer acknowledges that certain Services are intended to be

performed by PowerSchool off-site (e.g., through remote communication capabilities). If any portion of the work will be performed on Customer's premises, Customer agrees to provide appropriate access to utilities, workspace, and other on-site accommodations reasonably necessary to enable PowerSchool to perform such work.

**14.3.9 Export.** Without in any way limiting the restrictions on transfer set forth elsewhere in this Agreement, Customer specifically agrees that Customer will not, directly or indirectly, export or transfer any export-controlled commodity, technical data or software: (a) in violation of any laws, regulations, rules, or other limitations imposed by any government authority; or (b) to any country for which an export license or other governmental approval is required at the time of export, without first obtaining all necessary licenses or other approvals.

**14.3.10 U.S. Government Restricted Rights.** PowerSchool Product(s) is a "commercial item" as that term is defined in 48 C.F.R. §2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are defined in 48 C.F.R. §12.212 and 48 C.F.R. §227.7202, as applicable, and all as amended from time to time. Consistent with 48 C.F.R. §12.212, 48 C.F.R. §227.7202 and 48 C.F.R. §52.227-19, and other relevant sections of the Code of Federal Regulations, as applicable, and all as amended from time to time, all U.S. Government end users acquire PowerSchool Product(s) only with those rights set forth herein.

**14.3.11 Essential Basis of the Agreement.** Customer acknowledges and understands that the disclaimers, exclusions and limitations of liability set forth in this Agreement form an essential basis of the agreement between the Parties, that the Parties have relied upon such disclaimers, exclusions, and limitations of liability in negotiating the terms and conditions herein, and that absent such disclaimers, exclusions, and limitations of liability, the terms and conditions of the Agreement would be substantially different.

**14.3.12 Entire Agreement.** This Agreement and/or exhibits referenced herein, and any addendums and amendments, constitute



the complete and entire agreement between the Parties with respect to its subject matter, and supersedes all prior discussions, understandings, arrangements, proposals and negotiations with respect to same. The terms and conditions of this Agreement will prevail notwithstanding any variance with the terms and conditions of any purchase order or other documentation submitted by Customer with respect to PowerSchool Product(s) or any Services, and PowerSchool hereby refuses any such different or additional provisions in purchase orders or other documents. By mutual agreement of the Parties, this Agreement is effective upon execution of a Quote and supersedes all prior Agreements entered into by the Parties, the Parties' agents, and/or the Parties' previous affiliates. This Agreement may not be modified or amended without the written agreement of both Parties that specifies the particular Section(s) being modified. The order of precedence is the executed Quote, then this Agreement, then any referenced and applicable exhibits and privacy policy.

## EXHIBIT A

### SUPPORT POLICY

**1. Definitions.** Capitalized terms not defined herein have the meanings assigned to them in the Agreement between Customer and PowerSchool to which these Support and Services Policies (“Policies”) are attached. In addition, for purposes of these Policies, the following definitions will apply:

**1.1** “Errors” means a reproducible failure of Licensed Product to operate in accordance with its standard Documentation, despite the proper installation and use of the Licensed Product in a proper operating environment and on hardware and system software sufficient to meet PowerSchool’s then-current minimum requirements, which are subject to change as New Versions are released. User mistakes are not Errors within the meaning of these Policies. Errors may be due to problems in Licensed Product, Subscription Service, the Documentation, or both.

**1.2** “Fix” means a patch, service pack or corrective update of Licensed Product that PowerSchool may prepare in its discretion on an interim basis, prior to issuance of a New Version, to correct programming Errors that prevent or obstruct normal operation of Licensed Product or Subscription Service in accordance with the applicable Documentation and developed by PowerSchool.

**1.3** “New Products” means new products, programs or modules offered by PowerSchool and are distinguished from New Versions and Fixes. New Versions and Fixes may include New Products that provide features, functions or applications not included in the Licensed Product originally licensed by Licensee and for which additional license fees apply as determined by PowerSchool to access. A New Product may be usable with or in addition to the Licensed Product originally licensed by Licensee. New Products will be licensed to Licensee under the terms of PowerSchool’s then-current license agreement only after payment of applicable fees.

**1.4** “New Version” mean an updated version of Licensed Product issued by PowerSchool, which may include Fixes, together with such other modifications, updates, enhancements and improvements to Licensed Product that PowerSchool may, in its discretion, develop and deem ready for distribution and that PowerSchool standardly provides to all customers with a current support subscription to such Licensed Product or Subscription Service.

**1.5** “Support Services” means those support services described in Section 3.1 below that will be provided hereunder with respect to Subscription Services and Licensed Products during the relevant Support Term.

**1.6** “Support Term” means the length of time Support Services are to be provided hereunder and for which the Customer or Licensee has paid any applicable Support Services fees, including any initial Support Term and any renewal Support Terms.

**1.7** “Telephone and E-mail Support” means telephone and e-mail support services, available Monday through Friday, during PowerSchool’s normal business hours, exclusive of PowerSchool’s holidays, regarding Subscription Services and Licensed Product.

**2. Support Term; Fees.** Support Services for Licensed Products provided under certain licensing arrangements are available at an additional cost. If the Customer separately purchases a Support Term, such purchases will be listed separately in the Quote. Support is provided as a part your purchased Subscription Services listed on the Quote and will not require purchase of a separate Support Term. Support with your Subscription Services will continue with the duration of your purchase of a Subscription Service. For Support Services purchased concurrently with a license, the initial Support Term will begin upon shipment (FOB PowerSchool's place of shipment) of Licensed Product (or, in the case of a when made available for download electronically, upon PowerSchool's provision of the necessary licensing information to enable Licensee to download Licensed Product) or launch date when access to the Subscription Services is provided; and terminate one (1) year thereafter, unless a different Support Term is specified in PowerSchool's written acknowledgment of the client's order, or unless terminated earlier in accordance with the terms of these Policies or the Agreement. Either Party may terminate the provision of Support Services as of the end of the then-current Support Term by providing written notice to the other party prior to the end of the then-current Support Term that such party does not wish to renew the Support Term. Licensee/Customer must provide written notice of non-renewal at least thirty (30) days prior to the applicable Support Term. If notice of non-renewal is not given by either party, the Support Term will automatically renew for the applicable renewal term stated on PowerSchool's renewal invoice at the then current Support fees; otherwise, the Support Term will terminate at the end of Licensee's current paid-up Support Term. If Licensee's/Customer's Support Term is so terminated due to nonpayment, and then PowerSchool subsequently reinstates Licensee's/Customer's access to support, such reinstated access will remain subject to the terms of these Policies and payment of applicable reinstatement fees. PowerSchool reserves the right to charge reinstatement fees in the event deactivated licenses are reactivated. For the initial Support Term, Licensee/Customer must pay the charges specified in PowerSchool's initial invoice. For renewal Support Terms, Licensee/Customer must pay PowerSchool's then-current annual Support Services fees. PowerSchool may supply new or modified Support and Services Policies or other terms and conditions in a renewal term, in which event such new or modified Support and Services Policies or other terms and conditions will govern PowerSchool's provision in such renewal term.

**3. Support Services Scope.** PowerSchool, or an entity under contract with and authorized by PowerSchool to provide Support Services, will provide Support Services for Licensed Product and Subscription Services during the Support Term. The scope of Support Services will be as follows:

**3.1 Support.** Support Services include: (a) Telephone and E-mail Support; (b) access to an online support website, as maintained by PowerSchool for customers maintaining a current support subscription; (c) Fixes, as developed and made generally available by PowerSchool in its discretion to address Errors that Licensee is experiencing in using Licensed Product or Customer is experiencing in any Subscription Service; and (d) New Versions, as developed and made generally available by PowerSchool. Support Services do not include New Products. PowerSchool determines, in its sole discretion, what constitutes a New Product (for



which additional license fees apply), and what improvements and enhancements to existing functionality of a Licensed Product or Subscription Service are to be included in a New Version (and are therefore provided at no charge to customers with a current support subscription).

**3.2 Custom Programs.** For any custom programs developed for Licensee/Customer by PowerSchool, Support Services are available only on a time and materials basis at PowerSchool's current rates and charges for these services; support for custom programs is not included in Support Services. In addition, to the extent that Licensed Product or Subscription Service includes any functionality that allows the user to customize screens or reports, PowerSchool will support the application infrastructure utilized to create such customizations but will not be responsible for supporting any such customizations.



## EXHIBIT B

### PROFESSIONAL SERVICES POLICY

This Exhibit B sets forth the additional policy and party expectations supporting PowerSchool's provision of Professional Services to the Customer/Licensee in connection with the solution provided pursuant to this Agreement.

#### 1. Performance of Professional Services.

**1.1. Statements of Work.** For many professional services projects, PowerSchool will capture the project details in signed statement of work (each a Statement of Work" or "SOW") setting forth the agreed upon scope of the professional service, estimated or actual pricing and any special payment terms and, if applicable, project schedule, and estimated delivery dates. Both Parties will execute each Statement of Work and each is incorporated into this Agreement. For professional services projects not requiring the completion of a SOW, alignment between the Parties on such services are captured in a request form, change order or in the signed Quote. If there is a conflict between the terms set forth in this Agreement and a Statement of Work, the terms set forth in the applicable Statement of Work will control.

**1.2 Delivery and Cooperation.** Customer/Licensee acknowledges that Customer's cooperation is essential to the timely performance of PowerSchool's services. Customer will, to the extent required in connection with the performance of PowerSchool's services: (i) provide PowerSchool with any necessary Customer materials; (ii) provide PowerSchool with any required access to Customer's personnel, facilities or data; (iii) cause the appropriate personnel to cooperate with PowerSchool as required for PowerSchool to provide PowerSchool's services, including responding promptly to questions or issues; and (iv) make all payments when due. Customer's delay or failure to do so may delay the estimated delivery schedules set forth in the Statement of Work or otherwise communicated to the Customer. If Customer/Licensee fails to do any of the foregoing, both Parties will cooperate in good faith to develop a revised written delivery schedule and written Statement of Work or change order signed by both Parties with new pricing. Unless otherwise expressly agreed in a Statement of Work, all Professional Services will be deemed accepted upon delivery.

**2. Fees and Expenses.** In addition to providing Support Services during the Support Term, PowerSchool will perform such other Professional Services (training, installation, consulting, project management, etc.) as may be specified in a PowerSchool Quote, written acknowledgment of Customer/Licensee's order, or as may be subsequently agreed upon by the Parties in a SOW; provided that PowerSchool may, at its option, arrange for any such services to be performed by another entity on behalf of PowerSchool. Customer/Licensee agrees to pay for such services at the rates and charges specified in PowerSchool's written acknowledgment of Customer/Licensee's order, or, for work subsequently requested, at the rates agreed upon by Customer/Licensee and PowerSchool for such subsequent work. PowerSchool reserves the right to require a purchase order or equivalent documentation from Customer/Licensee prior to performing any such Services, or to require prepayment of certain Services. Unless otherwise specified, all rates quoted are for services to be performed during PowerSchool's normal business hours; additional charges may apply for evenings, weekends or holidays. Unless otherwise agreed, the Customer/Licensee will also pay PowerSchool for travel expenses (lodging, meals, transportation and other related expenses) incurred in the performance of services. All such additional charges will be due and payable concurrently with payment for services. PowerSchool reserves the right to impose a minimum labor charge for each on-site visit. The rates and charges specified in PowerSchool's acknowledgment of Customer/Licensee's order will apply to those services originally ordered; however, PowerSchool reserves the right to change service rates or other terms as a condition of entering into any subsequent service engagement. If Customer/Licensee pays in advance for any services, all services must be scheduled and delivered within twelve (12) months of such payment, unless otherwise agreed in writing by PowerSchool; any portion of any prepaid services amount that has not been used by Customer/Licensee toward services rendered within such twelve (12) month period will be forfeited.

**3. Training.** PowerSchool reserves the right to limit the number of persons permitted to attend any training class in accordance with PowerSchool's training standards.



**4. Changes to Project Scope.** Customer/Licensee may request changes to the scope of a Statement of Work. Any changes to the scope of a statement of work will result in a change order to such statement of work or a new statement of work. Any scope changes will be made pursuant to the terms set forth in a Statement of Work, to be mutually agreed upon by the Parties.

**5. Services Cancellation.** Customer/Licensee will pay a cancellation charge equal to fifty percent (50%) of the services fee and any non-refundable expenses incurred by PowerSchool if Customer/Licensee cancels any scheduled professional services less than fourteen (14) days before the occurrence of any service dates that PowerSchool has scheduled at Customer/Licensee's request.

**6. Ownership of Materials.** PowerSchool is the owner of all copyrights, patent rights and other intellectual property rights in any software code, documentation, reports or other deliverables (collectively, "Deliverables") created for or provided to Customer/Licensee pursuant to any Professional Services, unless otherwise agreed to in writing. Provided that all PowerSchool fees and expenses associated with the development and provision of such Deliverables are paid timely, Customer/Licensee will have a paid-up, royalty-free license to use such Deliverables for Customer/Licensee's internal use only, solely for the purpose for which such Deliverables were provided. Nothing in this Agreement will prevent PowerSchool from providing any Deliverables to PowerSchool's other customers or third parties. Notwithstanding the foregoing, PowerSchool acknowledges and agrees that any confidential information of a Customer/Licensee incorporated into any Deliverable remains subject to the provisions of such Section.

**7. Data Loads.** For most Licensed Products and Subscription Services, successful implementation requires proper data loads in specific formats and layouts. PowerSchool will inform the Customer/Licensee of the specific instructions such as data file layouts to support the data load for the implementation of a Licensed Product or Subscription Service. If the Customer/Licensee is unable to provide the data as required, PowerSchool may offer services to complete the data load at an additional charge. If such services are purchased, Customer/Licensee agrees to follow PowerSchool's specific instructions and use best efforts to support the data load activity as outlined by PowerSchool any such data load or migration. PowerSchool will not directly access non-PowerSchool applications to assist the Customer/Licensee in any data migration activity. Successful implementation is the shared obligation of both Parties.





## EXHIBIT C

### HOSTING SERVICES POLICY

**1. Term; Fees.** Hosting Services are available at an additional cost. For Hosting Services purchased concurrently with Customer's access to Subscription Services, Customer's initial Hosting Term will begin as of the start date listed on the signed Quote and terminate one (1) year thereafter, ("Hosting Term") unless a different Hosting Term is specified in the PowerSchool Quote, or unless terminated earlier in accordance with the terms of these Policies or the Agreement. Either Party may terminate the provision of Hosting Services as of the end of the then-current Hosting Term by providing written notice to the other party prior to the end of the then-current Term that such party does not wish to renew the Hosting Term. PowerSchool will provide Customer with at least sixty (60) days' notice if PowerSchool determines that it will no longer offer Hosting Services to Customer (but in any event will continue providing Hosting Services for the balance of the current term for which Customer has prepaid for such Services). If notice of non-renewal is not given by either party, then PowerSchool will invoice Customer for the applicable renewal fees for a subsequent Hosting Term. If Customer's Hosting Term is terminated due to non-payment, and then PowerSchool subsequently reinstates Customer's access to Hosting Services, such reinstated access will remain subject to the terms of these Policies and payment of applicable reinstatement fees. For the initial Hosting Term, Customer must pay the charges specified in PowerSchool's initial invoice. For renewal Terms, Customer must pay PowerSchool's then-current annual Hosting Services fees. PowerSchool may supply new or modified Support and Services Policies or other terms and conditions to Customer related to the provision of Hosting Services in a renewal term, in which event such new or modified Support and Services Policies or other terms and conditions will govern PowerSchool's provision of Hosting Services in such renewal term.

**2. Availability.** Customer acknowledges that the Subscription Service may be inaccessible or inoperable from time to time due to planned maintenance or to causes that are beyond the control of PowerSchool or are not reasonably foreseeable by PowerSchool, including, but not limited to: a force majeure event as defined in the Agreement, the interruption or failure of telecommunication or digital transmission links; hostile network attacks; network congestion; or other failures (collectively "Downtime"). PowerSchool will use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the Subscription Service caused by Downtime, whether scheduled or not. The foregoing does not apply to non-production systems, such as test, training and archival systems, which are available on an hourly basis.

**3. Acceptable Use Policy.** Customer acknowledges that PowerSchool does not monitor or police the content of communications or Customer data or its users' activities transmitted through the Subscription Services, and that PowerSchool will not be responsible for the content of any such communications or transmissions. Customer must use the Subscription Services exclusively for authorized and legal purposes, consistent with all applicable laws and regulations and PowerSchool's policies. Customer agrees not to post or upload any content or data which: (a) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening; (b) violates the rights of others, such as data which infringes on any intellectual property rights or violates any right of privacy or publicity; or (c) otherwise violates any applicable law. PowerSchool may remove any violating content posted or transmitted through the Hosting Services, without notice to Customer. PowerSchool may suspend or terminate any user's access to the Hosting Services upon notice in the event that PowerSchool reasonably determines that such user has violated the terms and conditions of this Agreement.

**4. Security.** In addition to complying with "Exhibit D: Security and Privacy", Customer will not: (a) breach or attempt to breach the security of the Hosting Services or any network, servers, data, computers or other hardware relating to or used in connection with the Hosting Services, or any third party that is hosting or interfacing with any part of the Hosting Services; or (b) use or distribute through the Hosting Services any software, files or other tools or devices designed to interfere with or compromise the privacy, security or use of the Hosting Services or the operations or assets of any other customer of PowerSchool or any third party. Customer will comply with the user authentication requirements for use of the Hosting Services. Customer is solely responsible for monitoring its authorized users' access to and use of the



Hosting Services. PowerSchool has no obligation to verify the identity of any person who gains access to the Hosting Services by means of an access ID. Any failure by any authorized user to comply with the Agreement is a material breach by Customer, and PowerSchool will not be liable for any damages incurred by Customer or any third party resulting from such breach. Customer must immediately take all necessary steps, including providing notice to PowerSchool, to effect the termination of an access ID for any authorized user if there is any compromise in the security of that access ID or if unauthorized use is suspected or has occurred. POWERSCHOOL WILL NOT BE RESPONSIBLE FOR ANY COSTS OR EXPENSES RELATED TO A SECURITY INCIDENT THAT IS CAUSED BY THE ACTS OR OMISSIONS, MISCONDUCT, NEGLIGENCE, OR FRAUD BY OR OF CUSTOMER OR ANY OF ITS USERS, EMPLOYEES, AGENTS, OR CONTRACTORS.

**5. Data.** Customer has sole responsibility for the legality, reliability, integrity, accuracy and quality of the data it processes through and submit to the Hosting Services.



## EXHIBIT D

### DATA PRIVACY AND SECURITY

#### 1. Ownership of Materials; Confidentiality; Compliance.

- 1.1. All pre-existing proprietary data, materials and other intellectual property of PowerSchool that is provided to Customer by PowerSchool in connection with the performance of this Agreement (collectively, **"PowerSchool's Pre-existing Intellectual Property"**) will remain PowerSchool's property, except where any written or other tangible materials or customizations delivered to Customer under a specific Statement of Work and Quote is licensed differently..
- 1.2. All Customer data and records uploaded or transmitted to PowerSchool under this Agreement (collectively, **"Customer Documents and Data"**) continues to be the property of Customer. PowerSchool will maintain all such Customer Documents and Data in strict confidence and will not disclose any such Customer Documents and Data, or copies thereof, to any person or entity other than Customer's legal counsel or Customer's designated contact, or pursuant to the Agreement. The data shared pursuant to this Agreement, including persistent unique identifiers, will be used for no purpose other than the performance of the Services, improvement of PowerSchool Product(s), or internal research. Should PowerSchool, either during or following termination of the Agreement, desire to use any Customer Documents and Data for its own purposes not contemplated in this Agreement, it must first obtain the prior written approval of Customer. Customer Documents and Data will not consist of De-identified Data.
- 1.3. PowerSchool acknowledges that Customer and Customer Users retain full right and ownership to all of their user-generated content (such content not encompassing any modifications to PowerSchool's Pre-existing Intellectual Property), unless such rights are specifically granted to PowerSchool in a writing signed by Customer and the User or, if the User is a minor child, by the child's parent/guardian. PowerSchool agrees not to edit, make available, distribute or otherwise disclose any information or content, including any Customer Documents and Data, generated or obtained from Customer or Users, whether submitted on PowerSchool's Site or otherwise obtained, unless: (1) integral to and clearly contemplated by the particular nature of the Services or otherwise permitted pursuant to this Agreement, or (2) written permission is first procured.
- 1.4. The Parties acknowledge that (i) Customer Documents and Data may include personally identifiable information from education records that are subject to the Family Educational Rights and Privacy Act, as amended ("FERPA Records"); and (ii) to the extent that Customer Documents and Data includes FERPA Records, PowerSchool will be considered a "School Official" (as that term is used in FERPA and its implementing regulations) and will comply with the requirements and obligations of School Officials under FERPA. Each party represents and warrants to the other party that it will comply with all provisions of FERPA applicable to such party's performance hereunder.
- 1.5. The Parties also acknowledge that Customer Documents and Data may include personally identifiable information from children under the age of 13, subject to the Children's Online Privacy Protection Act and related regulations ("COPPA"). Where applicable, Customer acknowledges that it will act as agent for the parents of students under the age of 13 for purposes of COPPA. Customer represents to PowerSchool that through the duration of this Agreement, the Customer is duly authorized to provide the data to PowerSchool for processing based on having obtained parental consent where necessary. Customer further acknowledges that it has read, fully understands, and agrees to abide by PowerSchool's Privacy Policy, available at [www.powerschool.com/privacy](http://www.powerschool.com/privacy) and as may be revised from time-to-time, incorporated by reference herein.
- 1.6. PowerSchool will safeguard and keep confidential personal or sensitive information obtained from a Customer User, including, but not limited to, personally identifying information such as the



name, email address or screen name of the Customer User.

- 1.7. The terms herein will not be construed as prohibiting either party hereto from disclosing information to the extent required by law, regulation, or court order, provided such party notifies the other party promptly after becoming aware of such obligations and permits the other party to seek a protective order or otherwise to challenge or limit such required disclosure.

## 2. Disposition of Data.

- 2.1. Upon written request and in accordance with the applicable terms in **Sections 2.2 or 2.3**, below, PowerSchool will dispose or delete all Customer Documents and Data within a commercially reasonable time period when it is no longer needed for the purpose for which they were obtained. Customer must inform PowerSchool when Customer Documents and Data is no longer needed. Disposition will include (1) the shredding of any hard copies of any Customer Documents and Data; (2) erasing; or (3) otherwise modifying the personal information in those records to make the information unreadable or indecipherable by human or digital means. Nothing in this Agreement authorizes PowerSchool to maintain Customer Documents and Data beyond the time period reasonably needed to complete the disposition. Upon request by Customer, PowerSchool will provide written notification to Customer when all Customer Documents and Data have been disposed. Upon receipt of a request from Customer, PowerSchool will immediately provide Customer access to Customer confidential information, specifically personnel data, within ten (10) calendar days of receipt of said request, as commercially reasonable.
- 2.2. Partial Disposal During Term of this Agreement. Throughout the Term of this Agreement, Customer may request partial disposal of Customer Documents and Data that is no longer needed. Partial disposal of Customer Documents and Data will be subject to Customer's request to transfer such data to a separate account. To the extent Customer is unable to transfer such data by their own accord, PowerSchool agrees to assist Customer to transfer any Customer Documents and Data in question, so long as it is commercially reasonable to do so. To the extent transfer or partial disposal of Customer Documents and Data is not commercially reasonable, PowerSchool will inform the Customer of the actual costs to undertake such a transfer, and Customer may reasonably agree to pay the cost of such transfer. All transfers must comply with applicable law. PowerSchool is not liable or in breach of this Agreement when it denies a transfer it reasonably believes is not in compliance with the law. Any transfer made on Customer's written request that such transfer is compliant with the law requires Customer to fully indemnify, defend, and hold harmless PowerSchool from complying with Customer's instructions.
- 2.3. Complete Disposal Upon Termination of this Agreement. Upon termination of this Agreement, PowerSchool will dispose of or delete all Customer Documents and Data within a commercially reasonable time period following termination; provided, however, in no event will PowerSchool dispose of Customer confidential information pursuant to this provision unless and until PowerSchool has received affirmative written confirmation from Customer that Personnel Data need not be transferred to a separate account.
- 2.4. Transfer to Succeeding Vendor Upon Termination. Upon termination, or upon a party's receipt of effective notice of termination, of this Agreement, PowerSchool will, if so requested by Customer, securely transfer all Customer Documents and Data directly from PowerSchool's Site to the hosting site or platform of another vendor designated by Customer, such transfer to occur on a date on or after the effective date of termination as directed by Customer in a format mutually agreed by PowerSchool. PowerSchool will have no obligation to transfer Customer Documents and Data in a form or format specified by succeeding vendor, but PowerSchool will provide Customer Documents and Data in a manner that is agreed upon as industry standard. To the extent transfer or partial disposal of Customer Documents and Data is not commercially reasonable, PowerSchool will inform the Customer of the actual costs to undertake such a transfer, and Customer may reasonably agree to pay the cost of such transfer.



3. **Data Security.** PowerSchool agrees to abide by and maintain adequate data security measures, consistent with industry standards and technology best practices for digital storage of sensitive personal data, to protect Customer Documents and Data from unauthorized disclosure or acquisition by an unauthorized person. The general security obligations of PowerSchool are set forth below. These security measures will include, but are not limited to:
  - 3.1. **Passwords and Employee Access.** PowerSchool will secure usernames, passwords, and any other means of gaining access to the Services or to Personnel Data, at a level meeting or exceeding the applicable standards. PowerSchool will only provide access to Personnel Data to employees or contractors who require access pursuant to the Agreement.
  - 3.2. **Security Protocols.** The Parties agree to maintain security protocols that meet industry standards in the transfer or transmission of any data, including ensuring that data may only be viewed or accessed by parties legally allowed to do so. PowerSchool will maintain all data obtained or generated pursuant to this Agreement in a secure digital environment and will not copy, reproduce, or transmit data obtained pursuant to this Agreement, except as necessary to fulfill the purpose of data requests by Customer.
  - 3.3. **Employee Training.** PowerSchool will provide periodic security training to those of its employees who operate or have access to the system. Further, PowerSchool will provide Customer with contact information of an employee whom Customer may contact if there are any security concerns or questions.
  - 3.4. **Security Technology.** PowerSchool will employ industry standard measures to protect data from unauthorized access. The service security measures will include server authentication and data encryption. PowerSchool will host data pursuant to this Agreement in an environment using a firewall that is updated according to industry standards.
  - 3.5. **Security Coordinator.** PowerSchool will provide the name and contact information of PowerSchool's security coordinator for the Personnel Data received pursuant to this Agreement upon written request.
  - 3.6. **Subprocessors Bound.** PowerSchool will enter into written agreements whereby subprocessors agree to secure and protect Personnel Data in a manner consistent with the terms of this **Section 3**. PowerSchool will periodically conduct or review compliance monitoring and assessments of subprocessors to determine their compliance with this **Section 3**. For the purposes of this Agreement, the term "subprocessor" means a party other than Customer or PowerSchool, whom PowerSchool uses for data collection, analytics, storage, or other service to operate and/or improve its software, and who has access to Personnel Data.
  - 3.7. **Periodic Risk Assessment.** PowerSchool further acknowledges and agrees to conduct digital and physical periodic risk assessments at least annually and remediate any identified security and privacy vulnerabilities in a timely manner.
4. **Data Breach.** In the event Personnel Data is accessed or obtained by an unauthorized individual or third party, PowerSchool will provide notification to Customer within a reasonable amount of time of confirmation of the incident, not exceeding seventy-two (72) hours. PowerSchool will follow the following process:
  - 4.1. The security breach notification will be written in plain language, will be titled "Notice of Data Breach," and will present the information described herein under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.
  - 4.2. The security breach notification described above in **Section 4.1** will include, at a minimum, the



following information:

- 4.2.1. The name and contact information of Customer's Designee or his designee for this purpose.
  - 4.2.2. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
  - 4.2.3. If the information is possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3) the date range within which the breach occurred. The notification will also include the date of the notice.
  - 4.2.4. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.
  - 4.2.5. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
- 4.3. PowerSchool agrees to adhere to all requirements in applicable state and federal law with respect to a data breach related to the Customer Documents and Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation, where commercially reasonable, e of any such data breach.
  - 4.4. PowerSchool further acknowledges to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident, or unauthorized acquisition or use of the Personnel Data or any portion thereof, including personally identifiable information and agrees to provide Customer, upon request, with a copy of said written incident response plan.
  - 4.5. If Customer requests PowerSchool's assistance providing notice of unauthorized access, and such assistance is not unduly burdensome to PowerSchool, PowerSchool will assist in notifying the affected individual(s) of the unauthorized access, which will include the information listed in **Sections 4.1** and **4.2**, above.



## EXHIBIT E

### PRODUCT SPECIFIC TERMS

This Exhibit contains terms and conditions specifically for certain products or services of PowerSchool. Such terms do not apply to all PowerSchool products in general.

#### 1. TERMS RELATING TO EMBEDDED APPLICATIONS

**1.1 Oracle.** The following terms are applicable to a certain Embedded Application known as Oracle Database Enterprise Edition (the "Oracle Software"):

The Oracle Software may only be used in conjunction with the Subscription Services and solely for Customer's internal business purposes.

- a) Oracle USA, Inc. ("Oracle") will have no liability whatsoever to Customer for any damages, whether direct, indirect, incidental, or consequential arising from Customers use of Subscription Services or the Oracle Software.
- b) Customer is prohibited from publishing the results of any benchmark tests run on the Oracle Software.
- c) Customer will be prohibited from timesharing, rental, facility management, or service bureau use of the Oracle Software.
- d) Customer's records may be audited, by PowerSchool or Oracle, during normal business hours to verify compliance with the terms of this Agreement.
- e) Oracle will be a third party beneficiary of this Agreement.
- f) Oracle will have no performance obligation or liability to Customer in connection with this Agreement.

Should the Oracle Software contain any source code provided by Oracle, such source code will be governed by the terms of this Agreement.

**1.2 GPL Software.** Certain Embedded Applications included with the Subscription Services may be free software licensed under the terms of the GNU General Public License (GPL). Customer may obtain a complete machine-readable copy of the source code for such free software under the terms of the GPL, without charge except for the cost of media, shipping, and handling, upon written request to PowerSchool. The GPL software is distributed in the hope that it will be useful, but WITHOUT ANY WARRANTY, including even the implied warranties of MERCHANTABILITY or FITNESS FOR A PARTICULAR PURPOSE. A complete copy of the GPL is included within the Subscription Services.

**1.3 Illuminate.** The following terms are applicable to a certain Embedded Application known as Illuminate (the "Illuminate Software") provided by Illuminate Education, Inc. ("Illuminate"):

- a) **LICENSE GRANT:** The LICENSEE is hereby granted a limited, non-exclusive, non-transferable right and license to access and use the Assessment Item Bank through Licensor's platform within the State in which the Licensee is organized, authorized and resides (the "Licensee Territory") to provide noncommercial access and use of any or all of the items from the Illuminate Content (referred to herein as the "Illuminate Content", "Item Bank", or individual items, materials associated with the items such as reading passages and graphics, and scoring materials from the Item Bank as "Items") to students registered within the Licensee's schools/districts for the sole purpose of performing formative assessments of those students (the "License"). The Licensee is strictly prohibited from using or promoting any Items in the Item Bank as high stakes assessments. All rights, licenses and privileges not expressly granted to the Licensee under the License will remain exclusive to Illuminate. Without limiting the generality of the foregoing, the Licensee acknowledges that Illuminate retains all rights under copyright and all other intellectual property rights in and to the Item Bank, all Items included therein and all modifications and derivative works created there from. The Licensee's rights to access and use the Item Bank, the Items and all modifications and derivative works thereof shall terminate upon the earlier of: (i) termination of the



agreement between the Licensee and Licensor granting this License; or (ii) termination of Licensor's right and license to distribute the Item Bank. Licensee acknowledges that use of the Item Bank, the Items, and all modifications and derivative works thereof after termination of the License is strictly prohibited and would constitute infringement of Illuminate's proprietary rights.

- b) Throughout the term of the License Illuminate will have the right, at its sole discretion, to modify the Item Bank, and to delete, and require the deletion by the Licensee, of specific Items and/or passages from the Item Bank.
- c) Data Extracts. Illuminate shall have the option to request data files for the Licensor containing a consistent, unique, pseudo student identifier (not student district ID), demographics, and individual responses for assessments created with the Illuminate Content. With regard to this Agreement, Illuminate agrees to abide by the No Child Left Behind Act Publication 107-110 and Family Educational Rights and Privacy Act (FERPA).
- d) ILLUMINATE REPRESENTATIONS, WARRANTIES AND LIMITATIONS OF LIABILITY. ILLUMINATE REPRESENTS THAT IT HASA THE RIGHT TO GRANT THIS LICENSE. ILLUMINATE MAKES NO WARRANTY WHATSOEVER, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, TITLE. ILLUMINATE IS NOT RESPONSIBLE FOR THE VALIDITY, FAIRNESS OR QUALITY OF ASSESSMENTS THAT ARE ULTIMATELY PREPARED BY THE LICENSEE USING THE ITEM BANK. ILLUMINATE WILL HAVE NO RESPONSIBILITY WITH RESPECT TO ANY USE OF THE ITEM BANK OR ANY ITEMS (A) TO THE EXTENT THAT ANY ITEMS HAVE BEEN MODIFIED WITHOUT PRIOR WRITTEN APPROVAL BY ILLUMINATE OR (B) FOR ANY PURPOSE OTHER THAN FOR FORMATIVE STUDENT ASSESSMENTS OR (C) FOR FAILURE TO USE THE ITEMS OR ITEM BANK IN ACCORDANCE WITH THE LICENSE OR THE LICENSEE'S AGREEMENT WITH LICENSOR. ILLUMINATE IS NOT RESPONSIBLE FOR THE CONTENT, ACCURACY, COMPLETENESS OR ADEQUACY OF ANY STATE STANDARDS ACCESSIBLE THROUGH THE COVERED PLATFORM.
- e) ILLUMINATE WILL HAVE NO LIABILITY UNDER THE LICENSEE'S AGREEMENT WITH LICENSOR. IN NO EVENT SHALL ILLUMINATE BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR OTHER INDIRECT DAMAGES. FURTHERMORE, NOTWITHSTANDING ANYTHING CONTAINED IN THE AGREEMENT TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL ILLUMINATE BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY DAMAGES IN EXCESS OF THE FEES PAID TO ILLUMINATE BY OR ON BEHALF OF THE LICENSEE PURSUANT TO THE LICENSE OR THE LICENSEE'S AGREEMENT WITH LICENSOR DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING SUCH CLAIM.

- 1.4 **Employee Records – Contracts Only License.** If Customer purchased “Unified Talent Contract Management Express,” Customer's use is limited to the use of the Contracts feature of *Unified Talent Employee Records* and its associated folder for each district employee. Unless Customer purchased “Unified Talent Records,” PowerSchool does not grant Customer usage of the full feature set of the *Employee Records* solution. PowerSchool reserves the right to audit the usage of other features and charge fees up to the list price of the full *Employee Records* solution if Customer purchased “Unified Talent Contract Management Express” but did not appropriately limit its use to the Contracts feature, as set out herein.

**2. STATE OR PROVINCIAL REPORTING CODE.** PowerSchool makes no representation that the PowerSchool SIS, eSchoolPLUS, iNOW SIS, or Trillium SIS products include any SRC or PRC designed to meet the reporting requirements of Licensee's state or province, as applicable. If PowerSchool does offer SRC or PRC for Licensee's state or province, Licensee acknowledges that the SRC or PRC is intended as a tool to assist Licensee in complying with state or provincial regulatory requirements; however, PowerSchool does not warrant or guarantee that the SRC or PRC conforms to, or that use of the SRC or





PRC will ensure Licensee's compliance with, all state or provincial regulatory requirements that may apply or that the SRC or PRC will be maintained to conform to such requirements now or in the future. It is Licensee's, and not PowerSchool's, responsibility to understand and comply with all such requirements.

**3. HARDWARE.** If Customer is purchasing any hardware through PowerSchool, Customer acknowledges that such hardware purchase is being facilitated by PowerSchool as an accommodation to Customer only. The warranties on any hardware not manufactured by PowerSchool will be limited to those provided by the manufacturers of such hardware and/or the vendors through which such hardware is being supplied. PowerSchool will pass through any manufacturer's or other vendor's warranty to the extent permitted by the manufacturer or other vendor, as applicable. Customer agrees to look solely to the applicable manufacturer or other vendor, and not to PowerSchool, to fulfill any such warranties and any maintenance, repair, support, or other service obligations related to such hardware. Unless otherwise specifically agreed to in writing by PowerSchool, PowerSchool does not provide support for any of the hardware or third party software being purchased by Customer through PowerSchool. Any requests for such support should be directed to the applicable hardware or software manufacturer. Customer further agrees that any claims related to any such hardware, whether for breach of warranty or otherwise, must be made directly against the applicable manufacturer or other vendor, and not against PowerSchool, and that PowerSchool will have no liability whatsoever in connection with such claims.