

**CONTRACT NAME: AGREEMENT BETWEEN POWER SCHOOL GROUP LLC  
AND DAVIS JOINT UNIFIED SCHOOL DISTRICT**

**BRIEF DESCRIPTION OF CONTRACT:** This agreement provides DJUSD with Performance Matters, an online platform for managing professional development. This includes posting, registration and dashboards for tracking professional learning. This platform will be used by all DJUSD employees.

**FISCAL IMPACT:** The term of this agreement is from January 1, 2019 to December 31, 2021. The annual fee starts at \$6,000, to be increased by 5% each year; the one-time set up fee is \$2,250. The 2018-2019 cost of \$8,250 is included in the approved budget.



PowerSchool Group LLC  
 150 Parkshore Dr, Folsom, CA 95630  
 Quote #: Q-133370-4  
 Quote Expiration Date: 10/31/2018

Prepared By: Nolan Vaught  
 Customer Name: Davis Joint Unified School District  
 Enrollment: 8,500  
 # of Schools: 17.00  
 Contract Term: 36 Months  
 Start Date: 1/1/2019  
 End Date: 12/31/2021

Customer Contact: Marcia Bernard  
 Title: Director of Technology  
 Address: 526 B St  
 City: Davis  
 State/Province: California  
 Zip Code: 95616  
 Phone #: (530) 757-5300 x117

Product Description	Quantity	Unit
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<b>License and Subscription Fees</b>		
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PDMS Pro	8,500.00	Students
License and Subscription Totals:		<b>USD 6,000.00</b>

<b>Professional Services and Setup Fees</b>		
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PDMS Pro - Implementation - Full Service Remote	8,500.00	Students
Professional Services and Setup Fee Totals:		<b>USD 2,250.00</b>

<b>Quote Total</b>		
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	<b>Year One Total</b>	<b>USD 8,250.00</b>
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<b>Annual Ongoing Fees</b>		
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PDMS Pro	8,500.00	Students
Annual Ongoing Fees Total:		<b>USD 6,000.00</b>

**Fees for subsequent years within the term bound by the Start Date and End Date detailed on this quote will be equal to the 'Annual Ongoing Fees' amount uplifted by 5.0% in each following year.**

On-Going PowerSchool Subscription/Maintenance & Support Fees are invoiced at then current rates & enrollment per terms of the Licensed Product and Services Agreement, which may be subject to an annual increase after the first year for non-multi-year contracts and/or enrollment increases.

Any applicable state sales tax has not been added to this quote. Subscription Start and expiration Dates shall be as set forth above, which may be delayed based upon the date that PowerSchool receives your purchase order.

In the event that this quote includes promotional pricing, such promotional pricing may not be valid for the entire period stated on this quote.

All invoices shall be paid within thirty (30) days of the date of invoice.

**All purchase orders must contain the exact quote number stated within. Customer agrees that purchase orders are for administrative purposes only and shall not impact the terms or conditions reflected in this quote and the applicable PowerSchool Licensed Product and Services Agreement.**

This quote is subject to and incorporates the terms and conditions for the applicable product(s) located at: <https://www.powerschool.com/additional-documentation-for-peopleadmin-talented-and-performance-matters/>

This quote is subject to and incorporates the terms and conditions of the PowerSchool Licensed Product and Services Agreement found at <https://www.powerschool.com/customer-contract-terms-and-conditions-us-6-2-17/>



## Licensed Product and Services Agreement

**IMPORTANT: DO NOT ALLOW LICENSED PRODUCT (AS DEFINED BELOW) TO BE INSTALLED OR USED WITHOUT READING THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE NOT WILLING TO ACCEPT THESE TERMS AND CONDITIONS, YOU MUST RETURN THE LICENSED PRODUCT TO POWERSCHOOL WITHIN TEN (10) DAYS OF RECEIPT. BY INSTALLING AND USING THE LICENSED PRODUCT AS PERMITTED BY THIS LICENSE OR ORDERING SERVICES (AS DEFINED BELOW), YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT.**

### LICENSED PRODUCT AND SERVICES AGREEMENT

Last updated as of June 2, 2017

**1. DEFINITIONS.** PowerSchool Group LLC, the licensor of Licensed Product pursuant to this Agreement, is referred to herein as “**PowerSchool**” The school, school district or other entity licensing Licensed Product is referred to herein as “**Licensee**.” This Licensed Product and Services Agreement is referred to herein as the “**Agreement**.” In addition, the following definitions shall apply:

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

**1.7 Support Services** is defined in section 3.1. of the Support and Services Policies attached hereto.

**1.8 Services** means Support Services, Hosting Services and Professional Services collectively.

**1.9 State Reporting Code (or SRC)** means Licensed Product that may be available to Licensee to assist Licensee in meeting specific state reporting requirements and that is designated as State Reporting Code by PowerSchool.

**1.10 Third Party Software** means any software product designated as Third Party Software by PowerSchool, and any related documentation supplied to Licensee. Any product designated as Third Party Software is licensed by an entity other than PowerSchool, under different license terms than those set forth herein. Third Party Software is different from Embedded Applications in that PowerSchool licenses the Embedded Applications to Licensee as part of Licensed Product (but in some cases, such Embedded Applications may be subject to additional license terms as identified herein). PowerSchool is not the licensor of Third Party Software.

## **2. LICENSE GRANT**

**2.1 Basic Terms.** Subject to the terms and conditions of this Agreement and the Privacy Policy located at <http://www.powerschool.com/customer-contract-privacy-policy>, PowerSchool grants to Licensee a restricted, personal, non-exclusive, non-transferable license to use the Licensed Product specified in the PowerSchool's quotation or acceptance of License purchase order solely to support its school administrative functions, only at the Licensed Sites, not to exceed the maximum student enrollment as set

**2.3 Supplemental Terms and Conditions.** The product-specific terms and conditions set forth in the Supplemental Terms and Conditions attached hereto are incorporated herein by reference. These additional terms and conditions are applicable to the extent that Licensee licenses any of the specific products or modules listed therein.

### **3. PROPRIETARY RIGHTS**

**3.1 Restrictions on Use of the Licensed Product and Services.** Licensee shall use the Licensed Products and Services only for the internal business purposes of Licensee. Licensee shall not itself, or through any affiliate, employee, consultant, contractor, agent or other third party: (i) sell, resell, distribute, host, lease, rent, license or sublicense, in whole or in part, the Licensed Products or Services; (ii) 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 Licensed Products or Services, in whole or in part, for competitive purposes or otherwise; (iii) write or develop any derivative works based upon the Licensed Product or Services; (iv) modify, adapt, translate or otherwise make any changes to the Licensed Products or Services or any part thereof; (v) use the Licensed Products or Services to provide processing services to third parties, or otherwise use the same on a 'service bureau' basis; (vi) disclose or publish, without PowerSchool prior written consent, performance or capacity statistics or the results of any benchmark test performed on the Licensed Products or Services; or (viii) otherwise use or copy the same except as expressly permitted herein. Licensee shall not transfer, assign, provide or otherwise make Licensed Products, Services or this Agreement 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 Licensee in violation of this

confidence and not transmitted or shared.

**4. SUPPORT AND OTHER SERVICES.** Any Support and/or Professional Services and/or Hosting Services ordered from PowerSchool by Licensee in connection with the license of Licensed Product shall be provided by PowerSchool pursuant to PowerSchool's terms, conditions and policies applicable at the time of order to the particular Services purchased. PowerSchool's current terms, conditions and policies for delivery of Support and Services, which are subject to change from time to time, are attached hereto as the Support and Services Policies. Licensee's license of Licensed Product does not, by itself, entitle Licensee to any support, upgrades, patches, fixes or the like for Licensed Product; Licensee must maintain a current Support subscription and pay any applicable Support fees to be eligible for Support Services. Support Services must be purchased for all licenses in Licensee's possession. Support 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.** Licensee agrees to pay PowerSchool, in accordance with PowerSchool's invoice terms, the fees charged for the Licensed Products and related Services and/or other items ordered by Licensee, 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. Licensee agrees to also pay for PowerSchool's reasonable travel and lodging expenses for Services performed at Licensee's premises, at actual cost. If Licensee claims tax exempt status, Licensee agrees to provide evidence of such tax exemption upon PowerSchool's request. To the extent that such tax exemption cannot be properly claimed or does not extend to certain taxes or transactions, Licensee

conflict, the open source licensing terms shall govern, but only as to the software components subject to those terms. Notwithstanding the foregoing, Licensee acknowledges that if any open source software component is licensed under terms that permit Licensee to modify such component, and if Licensee does so modify such component, then PowerSchool will not be responsible for any incompatibility with such modifications and the remainder of the Licensed Product.

**7. COMPATIBLE PLATFORMS/HARDWARE.** Licensee 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 Licensed Product. PowerSchool will not be responsible for any incompatibility between Licensed Product and any versions of operating systems, hardware, browsers or other products not specifically approved by PowerSchool for Licensee's use with Licensed Product. PowerSchool will make written requirements available to Licensee at Licensee's request.

**8. LIMITED MEDIA WARRANTY.** PowerSchool warrants that the media on which Licensed Product is recorded shall 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 shall be replacement of the defective media.

**9. DISCLAIMER OF OTHER WARRANTIES. LICENSED PRODUCT AND SERVICES ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND (EXCEPT AS PROVIDED IN SECTION 8), 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**

acknowledges that the SRC is intended as a tool to assist Licensee in complying with state regulatory requirements; however, PowerSchool does not warrant that the SRC conforms to, or that use of the SRC will ensure Licensee's compliance with, all state regulatory requirements that may apply or that the SRC 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.

## **11. TERMINATION**

**11.1 Termination for Breach.** PowerSchool shall have the right to suspend performance under this Agreement in the event that Licensee is in breach of any of its obligations under this Agreement. In addition, either party shall 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 shall have the right to terminate this Agreement immediately upon written notice in the event that Licensee breaches any of its obligations under Section 3. Licensee further acknowledges that, as breach of the provisions of Section 3 could result in irreparable injury to PowerSchool, PowerSchool shall have the right to seek equitable relief against any actual or threatened breach thereof, without proving actual damages.

**11.2 Effects of Termination.** In the event of any termination of all or any portion of this Agreement, Licensee shall 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 and 13 shall survive termination of this Agreement. Immediately upon any termination of a license for any Licensed Product under this Agreement, Licensee shall, at its own expense, either return to PowerSchool or destroy all

**PROFITS, LOST FUNDING, LOST SAVINGS, OR LOST OR DAMAGED DATA; OR FOR CLAIMS OF A THIRD PARTY; ARISING OUT OF THIS AGREEMENT, LICENSED PRODUCT, THIRD PARTY SOFTWARE, 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, LICENSEE SHALL BE LIMITED TO RECEIVING ACTUAL AND DIRECT DAMAGES IN A MAXIMUM AGGREGATE AMOUNT EQUAL TO THE CHARGES PAID BY LICENSEE TO POWERSCHOOL HEREUNDER FOR THE APPLICABLE LICENSED PRODUCT, ITEM OR SERVICE ON WHICH THE CLAIM IS BASED IN THE PREVIOUS TWELVE (12) MONTHS. IN ADDITION, IN NO EVENT WILL THE LIABILITY OF POWERSCHOOL RELATING TO SUPPORT SERVICES OR HOSTING SERVICES EXCEED THE TOTAL AMOUNT OF MONEY PAID BY LICENSEE TO POWERSCHOOL DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD WITH RESPECT TO THE PARTICULAR SUPPORT SERVICES OR HOSTING SERVICES ON WHICH THE CLAIM IS BASED.**

### **13. GENERAL**

**13.1 Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. This Agreement shall not be subject to the Uniform Computer Information Transactions Act.

**13.2 Compliance Verification.** During the term of the Agreement and for a period of one year following

this Agreement, regardless of form, more than one (1) year after the cause of action has arisen. In the case of notices to PowerSchool, such notices shall be sent to: PowerSchool Group LLC, Attn General Counsel, 150 Parkshore Drive, Folsom, CA 95630. In the case of notices to Licensee, such notices shall be sent to PowerSchool's address of record for Licensee. Either party may change its notice address by notifying the other in like manner. Licensee agrees that the terms of this Agreement, including all pricing for PowerSchool's products and services, shall be kept confidential and not disclosed to any third party without the prior written consent of PowerSchool.

**13.4 Facilities.** Licensee 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 Licensee's premises, Licensee agrees to provide appropriate access to utilities, work space and other on-site accommodations reasonably necessary to enable PowerSchool to perform such work.

**13.5 Confidentiality.** PowerSchool agrees to use commercially reasonable efforts to maintain the confidentiality of Licensee confidential information that is disclosed to PowerSchool in connection with the performance of services, and to use such Licensee confidential information solely for purposes of performing services hereunder. PowerSchool shall require its employees, agents and subcontractors performing work hereunder to do likewise. For purposes of this Section, "Licensee confidential information" shall mean any student or personnel data belonging to Licensee, or any other Licensee information or data labeled or identified as confidential at the time of disclosure, provided, however, that this definition and the obligations of this Section shall 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

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 Licensed Product only with those rights set forth herein.

**13.9 Entire Agreement.** This Agreement, inclusive of the Supplemental Terms and Conditions and the Support and Services Policies incorporated herein, or any addendums, amendments, and/or exhibits mutually executed and attached hereto, constitutes 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 shall prevail notwithstanding any variance with the terms and conditions of any purchase order or other documentation submitted by Licensee with respect to Licensed Product or any related support or 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 receipt and supersedes all prior Agreements entered into by the parties, the parties' agents, and/or the parties' previous affiliates. This Agreement shall not be modified or amended without the written agreement of both parties.

## **SUPPLEMENTAL TERMS AND CONDITIONS**

**1. PRICING; ENROLLMENT INCREASES.** License pricing for Licensed Product is based on student enrollment at the Licensed Sites. If an increase in student enrollment in excess of five percent (5%)

the Oracle Software.

(e) Licensee's records may be audited, by PowerSchool or Oracle, during normal business hours to verify compliance with the terms of this Agreement.

(f) Oracle shall be a third party beneficiary of this Agreement.

(g) Oracle shall have no performance obligation or liability to Licensee in connection with this Agreement.

(h) Should the Oracle Software contain any source code provided by Oracle, such source code shall be governed by the terms of this Agreement.

**2.2 GPL Software.** Certain Embedded Applications included with the Licensed Product may be free software licensed under the terms of the GNU General Public License (GPL). Licensee 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 Licensed Product.

**3. HARDWARE.** If, in conjunction with Licensee's licensure of Licensed Product, Licensee is purchasing any hardware through PowerSchool, Licensee acknowledges that such hardware purchase is being facilitated by PowerSchool as an accommodation to Licensee only. The warranties on any hardware not manufactured by PowerSchool will be limited to those provided by the manufacturers of such hardware.

applicable Licensed Product Agreement (“Agreement”) between Licensee and PowerSchool to which these Support and Services Policies (“Policies”) are attached. In addition, for purposes of these Policies, the following definitions shall apply:

**Errors** shall mean a reproducible failure of Licensed Product to operate in accordance with its standard Documentation, despite the proper installation and use of 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, the Documentation, or both.

**Fix** shall mean 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 in accordance with the applicable then-current Documentation.

**New Products** shall mean new products, programs or modules developed by PowerSchool 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. 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.

**New Version** shall mean an updated version of Licensed Product issued by PowerSchool, which may

Support Term will begin upon shipment (FOB PowerSchool's place of shipment) of Licensed Product (or, in the case of Licensed Product made available for download electronically, upon PowerSchool's provision of the necessary licensing information to enable Licensee to download Licensed Product) and terminate one (1) year thereafter, unless a different Support Term is specified in PowerSchool's written acknowledgment of Licensee'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 shall provide written notice of non-renewal at least thirty (30) days prior to the applicable Support Term. If no notice of non-renewal is 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, Licensee's Support Term will terminate at the end of Licensee's current paid-up Support Term. If Licensee's Support Term is so terminated due to non-payment, and then PowerSchool subsequently reinstates Licensee's access to support, such reinstated access shall 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 shall pay the charges specified in PowerSchool's initial invoice. For renewal Support Terms, Licensee shall pay PowerSchool's then-current annual Support Services fees. PowerSchool may supply new or modified Support and Services Policies or other terms and conditions to Licensee related to the provision of Support 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 Support Services in such renewal

that Licensed Product includes any functionality that allows Licensee 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.

**3.3 Requisite Training.** In order to receive Support Services described herein, Licensee must purchase appropriate training regarding the use and operation of Licensed Product. Telephone and E-mail Support may be limited to a specified number of authorized representatives of Licensee who have been appropriately trained.

**3.4 Enhancements to SRC.** PowerSchool may provide certain enhancements to SRC to customers that are current in their payment of annual Support fees for the SRC to PowerSchool. However, PowerSchool reserves the right, in its discretion: (a) to require that additional fees be paid by customers desiring that SRC be updated in connection with new reporting requirements in their state, in the event that such state's education department or equivalent entity makes changes to the state's reporting requirements that were not anticipated at the time PowerSchool determined its applicable Support fees for the SRC in that state; or (b) not to make further changes or enhancements to SRC in a given state based on lack of market demand, the nature and scope of the changes required, or other factors.

**4. Authorized Representatives.** If Licensee has purchased Support Services for the Licensed Product from PowerSchool, then in order to receive such Support Services, Licensee shall identify to PowerSchool up to two (2) people who will contact PowerSchool with any technical and product questions ("Authorized Representatives"). If it is desired that additional Authorized Representatives be permitted to

availability of Fixes and New Versions and to provide other information to customers that are maintaining a current support subscription. Licensee shall be responsible for including the appropriate Licensee personnel on any such e-mail distribution lists of PowerSchool so that Licensee receives such notifications and other information.

**6. Support For Prior Versions.** Licensee must timely install all Fixes and New Versions to receive Support Services. In some cases, it may not be practical for certain customers to install a New Version immediately upon release. Therefore, PowerSchool may, in its discretion, continue to provide Telephone and E-mail Support for the prior version of Licensed Product for a period of time after release of a New Version. Licensee acknowledges that Fixes and other code maintenance will not be available for prior versions of Licensed Product (including SRC) after the release of a New Version.

## **II. PROFESSIONAL SERVICES**

**1. 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 PowerSchool's written acknowledgment of Licensee's order, or as may be subsequently agreed upon by the parties; provided that PowerSchool may, at its option, arrange for any such services to be performed by another entity on behalf of PowerSchool. Licensee agrees to pay for such services at the rates and charges specified in PowerSchool's written acknowledgment of Licensee's order, or, for work subsequently requested, at the rates agreed upon by Licensee and PowerSchool for such subsequent work. PowerSchool reserves the right to require a purchase order or equivalent documentation from Licensee prior to performing any such Services, or to require prepayment of certain

services fee and any non-refundable expenses incurred by PowerSchool if Licensee cancels any scheduled professional services less than fourteen (14) days before the occurrence of any service dates that PowerSchool has scheduled at Licensee's request.

**4. Ownership Of Materials.** PowerSchool shall be 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 Licensee pursuant to Professional Services. Provided that Licensee pays PowerSchool all fees and expenses associated with the development and provision of such Deliverables, Licensee shall have a paid-up, royalty-free license to use such Deliverables for Licensee's internal use only, solely for the purpose for which such Deliverables were provided. Nothing in this Agreement shall prevent PowerSchool from providing any Deliverables to PowerSchool's other customers or third parties. Notwithstanding the foregoing, PowerSchool acknowledges and agrees that any Licensee confidential information (as defined in Section 13.5 of these Policies) that is incorporated into any Deliverable remains subject to the provisions of such Section.

### **III. HOSTING SERVICES**

**1. Term; Fees.** Hosting Services are available at an additional cost. For Hosting Services purchased concurrently with Licensee's license to Licensed Product, Licensee's initial Hosting Term will begin upon PowerSchool's written acknowledgment of Licensee's order and terminate one (1) year thereafter, ("Hosting Term") unless a different Hosting Term is specified in PowerSchool's written acknowledgment of Licensee's order, or unless terminated earlier in accordance with the terms of these Policies or the

**2. Availability.** Licensee acknowledges and agrees that the Licensed Product 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: the interruption or failure of telecommunication or digital transmission links; hostile network attacks; network congestion; or other failures (collectively “Downtime”). PowerSchool shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the Licensed Product caused by Downtime, whether scheduled or not.

**3. Acceptable Use Policy.** Licensee acknowledges and agrees that PowerSchool does not monitor or police the content of communications or data of Licensee or its users transmitted through the Services, and that PowerSchool shall not be responsible for the content of any such communications or transmissions. Licensee shall use the Services exclusively for authorized and legal purposes, consistent with all applicable laws and regulations and PowerSchool’s policies. Licensee 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 Licensee. 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.** Licensee will not: (a) breach or attempt to breach the security of the Hosting Services or any

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150 Parkshore Dr.  
Folsom, CA 95630



PRIVACY

# Privacy

## Privacy Policy

PLEASE READ THE FOLLOWING CAREFULLY

THIS PAGE PROVIDES GENERAL INFORMATION ABOUT THE PRIVACY POLICY OF THIS WEBSITE. IF YOU ARE UNDER 18 YEARS OF AGE, PLEASE BE SURE TO READ THIS PRIVACY POLICY WITH YOUR PARENTS OR GUARDIAN AND ASK QUESTIONS ABOUT THINGS YOU DO NOT UNDERSTAND.

This website (the “Site”) is brought to you by PowerSchool Group LLC (“PowerSchool”).

Your use of this Site is subject to the Terms of Use posted on this website (which includes this Privacy Policy). The Terms of Use (including this Privacy Policy) or any part thereof may be revised from time to time through an updated posting, and therefore you should check the Terms of Use (including this Privacy Policy) periodically. Revisions are effective upon posting and your continued use of this website following the posting of revisions to the Terms of Use (including this Privacy Policy) will indicate your acceptance of such revisions. If you have any questions concerning the Terms of Use (including this Privacy Policy), please [Contact Us](#).

PLEASE ALSO NOTE THAT THE PRIVACY POLICES OF VARIOUS POWERSCHOOL PRODUCTS

purposes as responding to your requests, customizing features for you, and communicating with you. Except as specifically stated herein, our policy is not to share this information with third parties, but we may share this information with other companies within PowerSchool. We will never sell this information to third-party marketing companies.

## Information Sharing And Disclosure

Information collected through this Site may be supplied to affiliates of PowerSchool, and other companies and organizations who perform work for us under contract or sell products or services that complement our products and services. We also may disclose personally identifiable information in the following situations: (a) in response to a subpoena, court order or legal process, to the extent permitted and required by law; (b) to protect user security or the security of other persons, consistent with applicable laws; (c) in connection with a sale, joint venture or other transfer to some or all of the assets of PowerSchool; or (d) in order to enforce the Site's Terms of Use. We otherwise exercise commercially reasonable care to not otherwise share or disclose the names of users or any personally identifiable information with third parties, except with the prior approval of the user.

## Special Notice To Parents And Children

is sending or posting personally-identifying information on any area of this Site, we will use commercially reasonable efforts to delete such personally-identifying information before it is made public. We will never request personally-identifying information from a Child in any of our public postings areas. Please note that any online store that may be accessed from the Site is intended for parents, teachers and other adult purchasers over the age of 18 and requires the submission of personally-identifiable information to fulfill and service any transactions.

We may disclose a Child's personally-identifying information in special cases when we have reason to believe that disclosing this information is necessary to identify, contact-us or bring legal action against someone who may be causing injury to or interference with (either intentionally or unintentionally) our rights or property, other users, or anyone else that could be harmed by such activities. We may also disclose a Child's personally-identifying information when we believe in good faith that the law requires it.

## Public Postings

Users and especially Children should note that any personally-identifying information that is voluntarily posted to any public area of this website may always be collected and used by others. While we monitor such posting areas from time to time and will use commercially reasonable efforts to delete a Child's personally-identifying information prior to posting, we strongly encourage Children not to post such

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