

Master Software License Subscription and Services Agreement

This Master Software License Subscription and Services Agreement (“**Agreement**”) is entered into for the school year of 2020 / 2021 (the “**Effective Date**”) by and between Hoonuit I, LLC, a Wisconsin limited liability company with its principal place of business at 210 W. College Avenue, Appleton, Wisconsin 54911 (“**Hoonuit**”) and **Customer**.

Definitions

For purposes of this Agreement, the following terms will have the following meanings:

“**Affiliate**” means with respect to an entity, any other entity or person that, now or in the future, either directly or through one or more intermediaries, controls, is controlled by, or is under common control with, such entity. For purposes of this definition, “control” means ownership of more than fifty percent (50%) of the voting stock or equivalent ownership interest in an entity.

“**Authorized Users**” means any employees, personnel, representatives, and agents of Customer that Customer authorizes to use the Software and Services.

“**Claim**” means any demand or any civil, criminal, administrative, or investigative claim, action, or proceeding asserted, commenced or threatened against an entity by an unaffiliated third party.

“**Customer App**” means the Software and Third Party Programs licensed by Customer from Hoonuit and hosted for Customer by Hoonuit pursuant to an Order.

“**Customer Data**” means all of Customer’s data or information that Hoonuit may be provided with, or have access to, in the course of performing the Services under this Agreement. For the avoidance of doubt, De-identified Data as defined in Section 22 is not Customer Data.

“**Customer Materials**” means any of Customer’s content, trademarks, service marks, photography, graphics, information, or other materials that Hoonuit may be provided with, or have access to, in the course of performing the Services under this Agreement.

“**Customer Website**” means a website that is hosted for Customer by Hoonuit pursuant to this Agreement and an Order.

“**Customization**” means custom software code created by Hoonuit in connection with this Agreement and as specified in a Statement of Work to enhance or otherwise alter the base Software.

“**Data Privacy Rules**” means all: (i) federal, state, and local data privacy and data protection laws and regulations, as amended, and their implementing rules and regulations and (ii) rules, regulations, terms of service, guidelines, standards, or other similar directives issued by non-governmental entities governing or relating to privacy and confidentiality of PII.

“**Documentation**” means the written materials, including instructions, rules, guidelines, manuals and/or procedures, associated with the Software that Hoonuit generally makes available to its licensees of such Software.

“**Enrollment Analytics Services**” means services provided by Hoonuit and/or its Affiliate, relating to enrollment projections, location intelligence technology, and other data analyses related to student enrollment. Enrollment Analytics Services are described in Exhibit C.

“Enrollment Analytics Fees” means the fees set forth in an Order to be paid by Customer to Hoonuit for Enrollment Analytics Services.

“**Hoonuit Platform**” means the technology platform used by Hoonuit to perform the Hosting Services.

“**Hosted Materials**” means the Customer App, Customer Data, Customer Materials, and Customer Website hosted by Hoonuit on Customer’s behalf.

“**Hosting Services**” means the hosting of the Hosted Materials on the Hoonuit Platform.

“Hosting Services Fees” means the fees set forth in an Order to be paid by Customer to Hoonuit for the Hosting Services.

“Intellectual Property Rights” means patents, copyrights, trademarks, trade secrets, trade dress, mask works, moral rights, rights of attribution or integrity, or other intellectual or industrial property rights or proprietary rights.

“Laws” means any statute regulation, ordinance, rule, order, decree, or governmental requirement enacted, promulgated or imposed by any governmental authority at any level (e.g., municipal, county, province, state, or national)

“License Fees” means the fees set forth in an Order to be paid by Customer to Hoonuit for Customer’s use of the Software.

“License Term” means the period set forth in an Order during which Hoonuit grants Customer the right to use the Software pursuant to this Agreement.

“Losses” means all losses, liabilities, liens, damages, costs, expenses, and charges suffered or incurred as a result of, or in connection with, a Claim, including reasonable attorneys’ fees and disbursements, costs of investigation, litigation, settlement, and judgement, and any taxes, interests, and penalties with respect to any of the foregoing.

“Maintenance Services” means maintenance and support services as described in Section 3.

“Maintenance Services Fees” means the fees set forth in an Order to be paid by Customer to Hoonuit for the Maintenance Services.

“Order” means Hoonuit’s standard order form documentation for ordering Software and applicable Services.

“Professional Services” means consulting services related to the Software and Hosting Services, including, but not limited to: (i) installation, implementation, and configuration of Software and/or Hosting Services; (ii) training; (iii) creation of Customizations; and (iv) creation of Customer Materials.

“Professional Services Fees” means the fees set forth in a Statement of Work to be paid by Customer to Hoonuit for Professional Services.

“PII” means information that identifies or relates to identifiable individuals.

“Record” means a record containing data and information about a particular Student or other individual.

“Services” means the Hosting Services, Professional Services and Enrollment Analytics Services provided by Hoonuit to Customer pursuant to an Order or Statement of Work and this Agreement.

“Software” means Hoonuit’s proprietary software product(s) and tools in object code form licensed to Customer pursuant to an Order and this Agreement; together with all end user manuals, reference manuals, installation guides and other Documentation therefore, and any Updates and corrections thereto, and any Third Party Programs incorporated therein.

“Statement of Work” means a statement of work describing the Professional Services to be performed by Hoonuit pursuant to this Agreement.

“Student” means a student enrolled at Customer’s schools.

“Third Party Programs” means proprietary software of third parties that is included with the Software and provided by Hoonuit.

“Updates” means modifications, improvements and refinements to the Software that are made generally available to Hoonuit’s customers.

1. **SOFTWARE LICENSE.** Subject to the terms and conditions herein, Hoonuit grants to Customer a non-exclusive, non-transferable license to use the Software listed in an applicable Order for the License Term up to, and including,

the quantities of Authorized Users and Records set forth in the Order (the "**License**"). Customer is limited to using the Software to monitor, measure, record, or analyze the performance of only those Authorized Users and Students for which Customer has an authorized and keyed Hoonuit Software component (see "Use of Key" below). The Software is provided in object code form only.

- a. **Use of Key.** The authorized use of the Software may require a certification key. If applicable, the Software will initially be electronically delivered with a temporary key that will allow use of the Software for only thirty (30) days, after which the Software will be inoperable. Where a certification key is required, upon payment in full of the License Fee, Customer will be provided with the key allowing use of the Software for the applicable License Term. Additional license fees may be required if such Authorized Users is of a different type, number, or model than initially identified.
 - b. **Restrictions.** The Software is confidential copyrighted property of Hoonuit and other third party owners, and title to all copies thereof is retained by Hoonuit and its licensors as applicable. Customer shall not decompile, disassemble, decrypt, extract, or otherwise reverse engineer the Software.
 - c. **Third Party Programs.** Hoonuit may include Third Party Programs in certain Software. Customer shall only use Third Party Programs with Software and may not use Third Party Programs as standalone software. Hoonuit shall be responsible for securing all licenses required from third parties to make Third Party Programs available to Customer for Customer's use under this Agreement, and for paying all fees, if any, in connection therewith. In the event of any claims relating to Intellectual Property Rights or infringement of any Third Party Programs included in the Software, Customer's sole and exclusive remedy is set forth in Sections 13 and 16.
 - d. **Reservation of Rights.** Hoonuit and its licensors reserve all rights in the Software and Documentation not expressly granted to Customer under this Agreement.
2. **SOFTWARE DELIVERY.** Within five (5) business days following the Effective Date, Hoonuit shall deliver electronically, over the Internet or via remote telecommunications or such other agreed upon method of delivery ("**Software Delivery**"), to Customer master copies of the Software as it exists as of the Effective Date (in object code format).
 3. **MAINTENANCE SERVICES.** Customer acknowledges and agrees that Customer is required to and shall purchase Maintenance Services during the applicable License Term as set forth in an Order. Subject to Customer's compliance with the terms and conditions of this Agreement and payment of all fees hereunder, Hoonuit agrees to perform Maintenance Services during the License Term pursuant to the following terms:
 - a. **Description of Maintenance Services.** Hoonuit will provide the Maintenance Services in accordance with Hoonuit Subscription Order Form;
 - b. **Updates.** Hoonuit will provide Customer with Updates at the time Hoonuit makes such Updates generally available at no additional cost to its customers who have paid for Maintenance Services. Customer shall destroy all copies of the Software replaced by any Update, and upon Hoonuit's request, provide Hoonuit with written certification thereof;
 - c. **Corrections.** Hoonuit will make reasonable attempts to provide corrections or to supply emergency remedies for problems reported by Customer if Software yields incorrect results and Hoonuit diagnoses the problem as a defect in a current, unaltered release of such Software;
 - d. **Continued Maintenance.** When Hoonuit issues an Update for any Software, Hoonuit will continue providing Maintenance Services for the previous version of such Software for a period of not less than twelve (12) months. At any time thereafter, upon sixty (60) days prior notice, which may be provided by Hoonuit via a posting on Hoonuit's website, Hoonuit may discontinue providing Maintenance Services for the previous version of the Software; and
 - e. **Customer Modifications.** Hoonuit shall be under no obligation to provide Maintenance Services if the Software: (a) is not used in the environment for which it was designed and configured; (b) is used by users other than the Authorized Users herein; or (c) is altered or modified in any way.
 - f. **Customizations.** Hoonuit shall be under no obligation to provide Maintenance Services with respect to any Customizations. If Customer desires for Hoonuit to provide assistance with respect to a Customization, the

parties will negotiate a Statement of Work setting forth the Professional Services to be performed by Hoonuit with respect to the Customization and the fees to be paid by Customer for such Professional Services.

4. **HOSTING SERVICES.** If Customer purchases Hosting Services pursuant to an Order, then subject to Customer's compliance with the terms and conditions of this Agreement and payment of all fees hereunder, Hoonuit agrees to perform the Hosting Services for the period set forth in the applicable Order pursuant to the following terms:
 - a. **Description of Hosting Services.** Hoonuit will provide the Hosting Services in accordance with Exhibit B (Hosting Services Description).
 - b. **Suspension of Access.** Hoonuit may immediately suspend Customer's access to or use of the Hosted Materials and the provision of Hosting Services under this Agreement if Hoonuit determines, acting in its sole discretion, that (a) there is a threat or attack on the Hosted Materials and/or Hoonuit Platform or other event that may create a significant risk to the Hosted Materials, Hoonuit Platform, Customer, or any Authorized User; (b) Customer's access to or use of the Hosted Materials and Hoonuit Platform is reasonably likely to impair the stability of, disrupt, or otherwise harm, the Hosted Materials or Hoonuit Platform or poses a significant security risk to the Hosted Materials, Hoonuit Platform, Customer, or any Authorized User; or (c) Customer has materially breached Section 4.d (Access Credentials), Section 4.f (Restrictions), or Section 24 (Compliance with Laws) of this Agreement.
 - c. **Provision of Customer Materials.** Customer will promptly provide Hoonuit with any Customer Materials that are reasonably requested by Hoonuit for incorporation into a Customer App or Customer Website, and such Customer Materials will be in the format specified by Hoonuit. In addition, subject to the terms of this Agreement and as allowed by the Hoonuit Platform, Customer may also upload Customer Materials to Customer Website.
 - d. **Access Credentials.** Hoonuit will provide Customer with unique access credentials to enable Customer to upload Customer Materials to a Customer Website. Customer will be responsible for keeping those access credentials secure and will not make them available to any third party other than a third party authorized to act on its behalf in accordance with this Agreement. Customer is responsible for all access to a Customer Website using its access credentials.
 - e. **Restrictions.** Customer will not upload any Customer Materials to the Hosted Materials or Hoonuit Platform that (a) misappropriate or infringe the Intellectual Property Rights of a third party, (b) are defamatory, obscene, pornographic, or that are determined by Hoonuit, acting in its sole discretion, to be offensive, (c) violate the rights of privacy or personality of any third party, or (d) are in violation of any applicable Laws or that cause the Hosted Materials or Hoonuit Platform to be in violation of any applicable Laws.
 - f. **Accessibility.** Customer will be solely responsible for ensuring that Customer Materials comply with all applicable Laws as to the accessibility of a software application or website to persons with disabilities and for performing any necessary accessibility testing as to Customer Materials.
 - g. **Right to Remove.** Hoonuit, acting in its sole discretion and without giving prior notice to Customer, may remove any Customer Materials from the Hoonuit Platform. Hoonuit, however, will not be responsible for reviewing Customer Materials to make sure they comply with applicable Laws or with the terms and conditions of this Agreement.
 - h. **Return of Customer Data.** After the termination of this Agreement for any reason, Hoonuit will return to Customer, at Customer's expense, all Customer Data in its possession within a reasonable amount of time after being requested to do so by Customer. The manner and format in which Customer Data will be returned to Customer will be determined by Hoonuit, acting in its reasonable discretion.
 - i. **Customer Terms of Use and Privacy Policy.** On each of the Hosted Materials, Customer will conspicuously display the terms of use setting forth the terms and conditions governing the use of such Hosted Materials by Authorized Users and a privacy policy setting forth the terms and conditions governing the use and disclosure of PII by Customer, and Customer will fully comply with all of its obligations under each such terms of use and privacy policy. Each privacy policy of Customer will be consistent with the Data Privacy Rules and will contain the following sentence (subject to any non-substantive modifications needed to make the references to Customer and Authorized Users, and their related pronouns, fit the context of Customer's privacy policy): "We use Hoonuit to host our website and mobile app. In connection with providing those services, Hoonuit and its Affiliates have access to your personal data and other data collected through the website, mobile app and/or

otherwise through the services and may use that information consistent with the terms of Hoonuit's privacy policy, as that privacy policy may be modified or replaced from time to time." If complying with this Section requires any changes to be made to Customer's privacy policy, Customer will obtain from Authorized Users all consents to those changes that it is legally or contractually required to obtain.

- j. **Compliance with Acceptable Use Policy.** Neither Customer, nor its Authorized Users, may use the Hosted Materials or the Hoonuit Platform: (i) in a way prohibited by Law, regulation, governmental order or decree; (ii) to violate the rights of others; (iii) to try to gain unauthorized access to or disrupt the Hosting Services or any device, data, account, or network; (iv) to spam or distribute malware; (v) in a way that could harm the Hoonuit Platform or impair anyone else's use of the Hoonuit Platform; or (vi) in any application or situation where failure of the Hoonuit Platform could lead to the death or serious bodily injury of any person, or to severe physical or environmental damage.
5. **PROFESSIONAL SERVICES.** If Customer purchases Professional Services pursuant to a Statement of Work, subject to Customer's compliance with the terms and conditions of this Agreement and payment of all fees hereunder, Hoonuit agrees to perform Professional Services pursuant to the following terms:
- a. Any such Professional Services may be evidenced by one or more Statements of Work, which may describe in detail the following information: (i) a detailed description of the Professional Services that Hoonuit is to perform; (ii) an incorporation by reference of this Agreement; (iii) a projected timetable by which each of the identified phases of the Professional Services are to be completed; (iv) Customer conditions of acceptance, if any; (v) the location where the Professional Services are to be performed; (vi) the projected commencement and termination dates; (vii) Hoonuit's compensation rates; (viii) fees for the Professional Services and reimbursable expenses, if any; (ix) names of Hoonuit's and Customers' appointed project representatives; (x) a timetable for invoicing; and/or (xi) such other requirements for the Professional Services as may be agreed to in writing by the parties. Hoonuit shall not be obligated to undertake any Professional Services prior to Customer and Hoonuit each having signed a valid and complete Statement of Work for such Professional Services. In the event of a conflict between the terms and conditions of the main body of this Agreement and a Statement of Work, the Statement of Work shall prevail.
 - b. Hoonuit and Customer may modify the terms of a Statement of Work (or provisions thereof), but only by a written agreement which is signed by both parties (a "**Change Order**"). If Customer delivers to Hoonuit a written request for a Change Order, Hoonuit will prepare an estimate setting out the proposed changes which will be required to the Professional Services, any increase or decrease in the cost, and any impact to the time frame for delivery and/or completion of the Professional Services. If, after receipt of the foregoing information, Customer elects to continue with the Change Order, the parties hereto shall enter into a written Change Order that will identify the foregoing changes, and the Statement of Work shall be deemed so modified upon the execution of such Change Order by both parties hereto.
 - c. **Acceptance.** Without limiting any applicable warranties set forth in the Agreement, the Professional Services will be deemed accepted upon performance and delivery to Customer.
 - d. **Cancellation Policy.** Hoonuit will allocate and schedule resources for the Professional Services to be rendered. If Customer cancels, postpones or otherwise changes the Professional Services schedule, the following applies:
 - (i) There is no cancellation fee if the Professional Services to be rendered are cancelled or postponed at any time prior to the tenth (10th) business day before the date when the Professional Services are scheduled to begin.
 - (ii) Customer shall be liable for and obligated to pay to Hoonuit a cancellation fee of fifty percent (50%) of the Professional Services fees if the Professional Services to be rendered are cancelled or postponed at any time beginning on the tenth (10th) business day and ending on the sixth (6th) business day before the date when the Professional Services are scheduled to begin.
 - (iii) Customer shall be liable and obligated to pay to Hoonuit a cancellation fee of one hundred percent (100%) of the Professional Services Fee if the Professional Services to be rendered are cancelled or postponed at any time after the fifth (5th) business day before the date when the Professional Services are scheduled to begin.

6. **ENROLLMENT ANALYTICS SERVICES.** If Customer purchases Enrollment Analytics Services pursuant to an Order, subject to Customer's compliance with the terms and conditions of this Agreement and payment of all fees hereunder, Hoonuit and any applicable Hoonuit Affiliate agree to perform such Enrollment Analytics Services pursuant to the following terms:
 - a. **Scope of Services.** Enrollment Analytics Services and website access rights are based upon the mix of products and services selected by Customer. Deliverables to Customer include but are not limited to (1) the generation of enrollment forecasts and (2) the granting of certain access rights to review and manipulate information via a secure web application.
 - b. **Obligations of Customer.** Customer shall provide to Hoonuit and any applicable Affiliate, at Customer's own cost, any data available to Customer which are required or requested for providing the selected Enrollment Analytics Services. Customer shall provide Hoonuit and any applicable Affiliate with the contact information for the appropriate Customer staff who will be working on the Enrollment Analytics Services project. Customer shall make reasonable efforts to aid Hoonuit and the applicable Affiliate in obtaining data from other public offices or agencies, local business firms, and private citizens whenever such data is necessary for the compilation of the work outlined in this Section 6 and at Customer's own cost. Customer shall direct its staff to review and respond to the data request documents provided to Customer. Customer agrees to provide this data in the array and format stipulated by Hoonuit and/or its Affiliate. (More information is available at the following website: <https://decisioninsite.com/support/>). Customer agrees to make appropriate attributions to the data source(s) in any written, graphically displayed or orally delivered presentations that include any piece of data, the presentation of the data or the methodologies by which the data is generated that are provided by Hoonuit and/or its Affiliate.
 - c. **Term; Project Timeline.** The term for Enrollment Analytics Services shall run pursuant an Order unless renewed by both parties. Customer's project will be put into the production queue within three (3) working days upon receipt of a signed agreement and all required data. Hoonuit and its applicable Affiliate will make reasonable efforts to complete the requested enrollment projections within five (5) weeks from the date of receipt and validation of requested data without compromising the integrity of the projections and output.
 - d. **Limitations.** Hoonuit and its Affiliates make no warranties for the ultimate accuracy of the information products related to Enrollment Analytics Services.
 - e. **Audits** Pursuant to, and in accordance with, the provisions of California Government Code section 8546.7, or any amendments thereto, all books, records and files of Hoonuit, any applicable Affiliate or any subcontractor connected with the performance of this Agreement involved in the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to the administration thereof, shall be subject to the examination and audit of the state auditor, at the request of Customer or as part of any audit of Customer, for a period of three (3) years after final payment is made under the Agreement. Hoonuit and/or Hoonuit's applicable Affiliate shall preserve and cause to be preserved such books, records, and files for the audit period.
7. **SUBCONTRACTING.** Hoonuit, at its sole discretion, may subcontract the performance of some or all of the Services to third parties ("**Subcontractors**"). Hoonuit will be responsible for managing all Subcontractors and will remain responsible for all Services delegated to Subcontractors to the same extent as if such Services were performed by Hoonuit. Hoonuit will be Customer's sole point of contact for all Services, whether performed by Hoonuit or Subcontractors, including with respect to payment of fees for Services.
8. **AUTHORIZED USERS.** Customer shall ensure that its Authorized Users comply with the terms of this Agreement and shall be responsible for the acts and omissions of its Authorized Users.
9. **INTERNAL USE.** Customer shall use the Software and Services solely for Customer's internal data processing and management needs. Customer shall not: (i) make the Software or Services available to anyone other than Authorized Users; (ii) use the Software or Services to process, store, or analyze Records of students that are not enrolled at Customer's schools; or (iii) sell, resell, license, sublicense, distribute, make available, rent or lease the Software or Service, or include any Software or Services in a service bureau or outsourcing offering.
10. **PAYMENT.** Customer agrees to pay the fees as set forth in the applicable Order(s) or Statement(s) of Work and as follows:
 - a. **License Fees.** Unless otherwise set forth in an Order, the License Fees shall be invoiced initially, as applicable, on the date of Software Delivery. The License Fees for renewal of a License are payable in full in

advance and shall be invoiced, as applicable, within thirty (30) days of the beginning of any renewal License Term. For each renewal License Term, Hoonuit may increase the License Fees by five percent (5%) of the previous License Term's License Fees.

- b. **Maintenance Services Fees.** Unless otherwise set forth in an Order, the Maintenance Services Fees for the initial License Term and any renewal License Term are payable in full in advance and shall be invoiced, as applicable, at the time of Software Delivery or within thirty (30) days of the beginning of any renewal License Term. For each renewal License Term, Hoonuit may increase the Maintenance Services by five percent (5%) of the previous License Term's Maintenance Services Fees.
- c. **Hosting Services Fees.** Unless otherwise set forth in an Order, the Hosting Services Fees shall be invoiced upon Customer's Signature of the Order. Hoonuit may increase the monthly fees for Hosting Services at any time by giving Customer written notice of such increase at least thirty (30) days before such increase will become effective.
- d. **Professional Services Fees.** Unless otherwise set forth in a Statement of Work, the Professional Services Fees shall be invoiced, as applicable, on the date the Professional Services are delivered.
- e. **Enrollment Analytics Services Fees.** Unless otherwise set forth in an Order, the Enrollment Analytics Fees shall be invoiced, as applicable, thirty (30) days prior to the date the enrollment Analytics Services are delivered.
- f. **Payment Terms.** Unless otherwise set forth in an Order or a Statement of Work, all undisputed fees hereunder are payable no later than thirty (30) days after invoice receipt by Customer and are to be paid in U.S. dollars (or other local currency if applicable). All undisputed fees not paid within thirty (30) days after invoice receipt by Customer shall accrue interest at the rate of 1-1/2% per month or the highest rate allowed by Law, whichever is lower.
- g. **Taxes.** In addition to all fees payable hereunder, Customer is responsible for and shall pay to Hoonuit amounts equal to all federal, state, and/or local governmental use, sales, excise or other taxes which are applicable to or arise out of performance of this Agreement. This provision does not include taxes attributable to taxable income from Hoonuit operations or those taxes related to Hoonuit's personal property.

11. **EXPORT RESTRICTIONS AND REGULATIONS.** The Software, including technical data, is subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries.

- a. In accordance with the foregoing, Hoonuit has notified the appropriate U.S. authorities that License Exception ENC applies to Hoonuit's exports of the Software. Customer agrees to comply strictly with the terms of License Exception ENC and all applicable regulations, and acknowledges that Customer has the responsibility to obtain all applicable licenses to export, re-export, or import the Software.
- b. Subject to this acknowledgement and upon receipt of Customer's written request, Hoonuit will provide reasonable levels of assistance to Customer in Customer's efforts to comply with any and all applicable export and/or trade regulations.
- c. Without limiting the generality of the foregoing, the Software may not be downloaded, used, sold, resold, sublicensed, diverted, transferred, reshipped, or otherwise exported or re-exported (i) in, into, or through any country designated as a terrorist supporting country by the U.S. government or any of its agencies; (ii) in, into, or through any country with which the U.S. has an embargo or with which the U.S. or any of its agencies maintains comprehensive trade controls; (iii) to or by a national or resident of the countries described in (i) or (ii); (iv) to or by any party included in the U.S. Department of Commerce's Denied Persons List, Entity List or Unverified List; or the U.S. Department of the Treasury's Specially Designated Nationals, Specially Designated Global Terrorists, Specially Designated Narcotics Traffickers, Specially Designated Narcotic Traffickers, or Specially Designated Terrorists List; or the U.S. Department of State's Designated Foreign Terrorist Organizations or Debarred Persons List; or is otherwise designated by the U.S. government or any of its agencies as a party with which it is unlawful to do business.

12. **HOONUIT WARRANTIES.**

- a. **Software Warranty.** Hoonuit warrants that for ninety (90) days after Software Delivery, the Software will perform substantially as described in the Documentation included with the Software as delivered to Customer, provided that Customer uses the Software in the environment for which it was designed and configured. This warranty shall be immediately terminated if Customer or any third party makes unauthorized modifications to the Software. Investigations and corrections for defects traceable to (i) Customer's actions and/or errors or (ii) the Customer's data environment shall be billed at Hoonuit's standard time and materials charges. Upon receipt of notification from Customer that the Software fails to comply with the warranty during the warranty period, Hoonuit's sole obligation under this warranty, and Customer's exclusive remedy, shall be to use commercially reasonable efforts to correct or modify such defective Software so that it will perform according to this warranty. If Hoonuit cannot correct the defect in the Software within a reasonable time, and such defect materially impairs the performance of the Software, then Customer may return the Software to Hoonuit and Hoonuit shall refund any prepaid License Fees and Maintenance Services Fees relating thereto.
- b. **Professional Services Warranty.** Hoonuit warrants to Customer that, in performing the Professional Services, it will use the ordinary and reasonable care usually exercised by its profession, on the same type of project, at the same time and in the same place, under similar circumstances and conditions. Hoonuit shall, as its sole obligation and Customer's sole and exclusive remedy for any breach of the warranty set forth in this section, re-perform the Professional Services which gave rise to the breach or, if Hoonuit cannot re-perform such defective Professional Services, Customer may terminate this Agreement pursuant to Section 19, provided that Customer shall notify Hoonuit in writing in reasonable detail.

13. LIMITED WARRANTY AGAINST INFRINGEMENT.

- a. Hoonuit warrants that it has the full power and authority to grant the License herein, free from infringement, or other violation, of any United States copyright, trademark, or trade secret of any third party. Should the use of the Software become, or in Hoonuit's opinion be likely to become, enjoined, Hoonuit may, at its option and expense, either: (a) procure for Customer the right to continue using the Software, (b) replace or modify the Software to make the Software non infringing; or (c) refund to Customer any prepaid License Fees in exchange for Customer's return of the Software to Hoonuit.
- b. Hoonuit shall have no obligation to take any of the actions enumerated above for any Claim of United States copyright, trademark, or trade secret infringement based on either: (a) use of other than a current unaltered release of the Software available from Hoonuit if such infringement would have been avoided by the use as supported by Documentation of a current unaltered release of the Software available from Hoonuit, or (b) use or combination of the Software with non Hoonuit software or data if such infringement would have been avoided by the use or combination of the Software with any other software or data not ordinarily supported by Hoonuit.

14. DISCLAIMER/EXCLUSION OF WARRANTIES. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN SECTION 12 (HOONUIT WARRANTIES) AND SECTION 13 (LIMITED WARRANTY AGAINST INFRINGEMENT), THE SOFTWARE, MAINTENANCE SERVICES, AND SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND. HOONUIT DOES NOT WARRANT THAT THE SOFTWARE, MAINTENANCE SERVICES, OR SERVICES WILL BE ERROR FREE OR UNINTERRUPTED. HOONUIT EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE SELECTION, INSTALLATION, USE, EFFICIENCY AND SUITABILITY OF THE SOFTWARE AND HOONUIT SHALL HAVE NO LIABILITY THEREFOR.

15. CUSTOMER REPRESENTATIONS AND WARRANTIES. Customer represents, warrants, and covenants to Hoonuit as follows:

- a. **Legal Authority.** Customer has all necessary legal authority to enter into this Agreement and to grant Hoonuit and Hoonuit's Affiliates and Subcontractors the rights and privileges set forth in this Agreement.
- b. **Consents.** At the time Hoonuit is provided, or given access to, any Customer Data or Customer Materials, Customer will have obtained all consents and permissions from Authorized Users or other third parties that are required (a) to provide, or give access to, such Customer Data or Customer Materials to Hoonuit and Hoonuit's Affiliates and Subcontractors, and (b) to enable Hoonuit and Hoonuit's Affiliates to fully exercise all the rights and privileges as to such Customer Data and Customer Materials which are granted to them under this Agreement.

- c. **Viruses.** Neither Customer, nor any of its Affiliates, nor any employee or other personnel of Customer or any of its Affiliates will (directly or indirectly) introduce a virus or other harmful code into the Hoonuit Platform or to any Hoonuit network or IT system.

16. INDEMNIFICATION.

- a. **Indemnification by Hoonuit.** Hoonuit will defend, indemnify, and hold harmless Customer, Customer's Affiliates, all officers, directors, employees, agents, and representatives of Customer or Customer's Affiliates, and the successors and assigns of the foregoing (collectively "**Customer Indemnitees**") from any and all Losses arising from, connected with, or based on any of the following: (a) any Claim based on allegations that the Software, Hoonuit Platform or the Professional Services misappropriates or infringes the Intellectual Property Rights of any third party, except to the extent that such Claim is based on the use of the Software or Hoonuit Platform, in any manner not expressly authorized by this Agreement, the modification by Customer of the Software or Hoonuit Platform without the express approval or participation of Hoonuit, or the use by Customer of the Software or Hoonuit Platform with any product, service, or materials without Hoonuit's prior written consent; or (b) any Claim based on allegations of gross negligence or willful misconduct by Hoonuit or its Affiliates.
- b. **Indemnification by Customer.** Customer will, at its sole cost and expense, indemnify, defend, and hold harmless Hoonuit, Hoonuit's Affiliates, all officers, directors, employees, agents, and representatives of Hoonuit or Hoonuit's Affiliates, and the successors and assigns of the foregoing (collectively, the "**Hoonuit Indemnitees**") from any and all Losses arising from, connected with, or based on any of the following: (a) any Claim based on allegations that, if true, would constitute a breach of any of Customer's representations, warranties, or obligations under this Agreement; or (b) any Claim based on allegations that any Hosted Materials misappropriate a trade secret or infringes a patent, copyright, trademark, or other proprietary right of a third party.
- c. **Procedure.** If a Customer Indemnitee or a Hoonuit Indemnitee (each an "**Indemnified Party**") desires to be indemnified pursuant to this Section 16, it shall give notice of the Claim to the other party ("**Indemnitor**"). Notwithstanding anything contained herein to the contrary, an Indemnified Party may, at its option, assume the defense of a Claim, in which event Indemnitor will cooperate fully in such defense and may participate in such defense at its own expense with counsel of its own choice. Upon written confirmation by Indemnitor that it will perform its obligations hereunder with respect to a Claim, Indemnified Party will provide to Indemnitor, at Indemnitor's expense, reasonable information and assistance, and Indemnified Party may participate in such defense at its own expense with counsel of its own choice. Notwithstanding the foregoing, should Indemnitor fail or refuse to promptly acknowledge its acceptance of the indemnity obligation, or in the event that Indemnitor or its counsel shall fail to take, or refuse to confirm that it will take in a timely manner, any action to avoid any loss of rights or prevent prejudice to any position of an Indemnified Party, then the Indemnified Party shall be free to act in its own behalf to avoid any such prejudice or loss of rights without jeopardizing its right to its indemnity hereunder. The cost including reasonable attorney's fees for an Indemnified Party to take any such acts shall be paid for by Indemnitor. Indemnitor shall not settle any Claim without the Indemnified Party's written approval, not to be unreasonably withheld, unless the settlement terms are strictly a monetary payment made by Indemnitor to claimant.

- 17. **LIMITATION OF LIABILITY.** UNDER NO CIRCUMSTANCES WILL HOONUIT OR ITS SUBCONTRACTORS BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, REVENUE, OR GOODWILL AND DAMAGES FOR BUSINESS INTERRUPTION, THAT ARISE OUT OF, OR HAVE TO DO WITH, THE SOFTWARE, THE MAINTENANCE SERVICES, THE HOSTING SERVICES, THE PROFESSIONAL SERVICES, THE ENROLLMENT ANALYTICS SERVICES, THIS AGREEMENT, OR THE BREACH OF THIS AGREEMENT, WHETHER BASED ON CONTRACT, TORT, STATUTE, OR ANY OTHER THEORY OF LIABILITY OR RECOVERY, EVEN IF HOONUIT OR IS SUBCONTRACTORS HAVE BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. UNDER NO CIRCUMSTANCES WILL HOONUIT'S OR ITS SUBCONTRACTORS' AGGREGATE LIABILITY TO CUSTOMER OR TO ANY THIRD PARTY ARISING OUT OF, OR HAVING TO DO WITH, THE SOFTWARE, THE MAINTENANCE SERVICES, THE HOSTING SERVICES, THE PROFESSIONAL SERVICES, THE ENROLLMENT ANALYTICS SERVICES, THIS AGREEMENT, OR THE PERFORMANCE OR BREACH OF THIS AGREEMENT, WHETHER THAT LIABILITY IS ACTIONABLE UNDER CONTRACT, TORT, STATUTE, OR OTHERWISE, EXCEED THE AMOUNT OF THE FEES PAID BY CUSTOMER TO HOONUIT UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE MOST RECENT EVENT GIVING RISE TO LIABILITY OCCURRED.

18. **PUBLICITY.** Hoonuit agrees to obtain prior written approval from Customer, which shall not be reasonably withheld, before using Customer's and/or any of its Affiliates' or subsidiaries' names, logos or trademarks orally or in writing in press releases, advertising, media articles and/or interviews, including customer lists or for any other promotional purposes.

19. **TERM AND TERMINATION.**

- a. **Term of the Agreement.** This Agreement begins on the Effective Date and, unless terminated pursuant to Sections 19.f. or 19.g, continues until all Orders and Statements of Work hereunder have expired or been terminated.
- b. **License Term.** The License Term for a particular License and the related Maintenance Services will be set forth in the applicable Order. The License Term for each Order will automatically renew for successive one (1) year periods unless either party provides the other party with written notice of its intent not to renew at least sixty (60) days prior to the end of the then current License Term.
- c. **Term for Hosting Services.** The term for Hosting Services will be set forth in the applicable Order. The term for Hosting Services for each Order will automatically renew for successive one (1) year periods unless either party provides the other party with written notice of its intent not to renew at least sixty (60) days prior to the end of the then current term for Hosting Services.
- d. **Term for Professional Services.** The period for performance of Professional Services will be set forth in the applicable Statement of Work.
- e. **Term for Enrollment Analytics Services.** The term for Enrollment Analytics Services will be set forth in an Order.
- f. **Termination by Customer.** Customer may terminate this Agreement if Hoonuit materially breaches an obligation under this Agreement and fails to cure such breach within sixty (60) days of Hoonuit's receipt of written notice from Customer of such material breach.
- g. **Termination by Hoonuit.** Hoonuit may terminate this Agreement if Customer: (i) fails to make undisputed payments when due and such failure is not cured within thirty (30) days of receipt of notice by Customer; (ii) becomes insolvent, is adjudged bankrupt, makes a general assignment for the benefit of creditors, voluntarily files for bankruptcy or has a receiver or bankruptcy trustee (or the like) appointed by reason of its insolvency or alleged insolvency; or (iii) materially breaches an obligation under this Agreement and fails to cures such breach with sixty (60) days of Customer's receipt of written notice from Hoonuit of such material breach.
- h. **Effect of Termination.** Termination of this Agreement terminates all then-current Orders and Statements of Work.
 - (i) If Customer terminates this Agreement pursuant to Section 19.f, Hoonuit will issue a refund to Customer for any pre-paid License Fees, Maintenance Services Fees, and Hosting Services Fees for the period of time from the effective date of termination to the end of the then-current License Term.
 - (ii) If Hoonuit terminates this Agreement pursuant to Section 19.g, Customer shall remain liable for all fees set forth in the terminated Orders and Statements of Work. Customer shall make prompt payment in full to Hoonuit for all such fees and all previously invoiced and undisputed amounts due and owing as of the effective date of termination.
 - (iii) Upon Hoonuit's request, Customer shall either immediately return all Software and all copies of Confidential Information to Hoonuit or shall destroy such Software and Confidential Information and certify as to such destruction.
- i. **Survival.** The following provisions shall survive expiration or termination of this Agreement: Definitions, 1.b., 1.d., 4.h., 10 (with respect to any payment obligations arising prior to expiration or termination), 14, 16, 17, 18, 19.i., 21-37.

20. **ASSIGNMENT.** Neither party may assign any or all portions of its rights or obligations under this Agreement to any third party without the prior written consent of the other party to this Agreement. Notwithstanding the foregoing,

Customer and Hoonuit may assign all or any portion of its rights and obligations under this Agreement to any Affiliate and/or to any successor by way of merger or consolidation or in connection with the sale or transfer of all or substantially all of its business and assets relating to this Agreement without the consent of the other party to this Agreement. Notwithstanding the foregoing, Customer may only assign and/or transfer those Licenses that are the subject of this Agreement. However, with respect to any previous licenses deployed by Customer prior to assignment under merger or consolidation, if the surviving corporation or entity desires to license any Software from Hoonuit or any Hoonuit Affiliate under this Agreement, it will be obligated to license the Software from Hoonuit if the surviving corporation's number of full time equivalent employees ("**FTEs**") under the to-be-assigned License terms exceeds Customer's number of FTEs in existence sixty (60) days prior to the assignment by more than ten percent (10%).

21. CONFIDENTIALITY.

- a. **Definition of Confidential Information.** "**Confidential Information**" means all information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer's Confidential Information includes Customer Data. Hoonuit Confidential Information includes the Software and Services. Confidential Information of each party includes the terms and conditions of this Agreement and any Order or Statement of Work (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. Confidential Information, however, does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by or for the Receiving Party.
- b. **Obligations with respect to Confidential Information.** The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own Confidential Information, but in no event, less than reasonable care. The Receiving Party shall: (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement; and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither party will disclose the terms of this Agreement to any third party other than its Affiliates, legal counsel, and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this Section 21. Notwithstanding the foregoing, Hoonuit may disclose the terms of this Agreement and any applicable Order or Statement of Work to a Subcontractor to the extent necessary to perform its obligations to Customer under this Agreement, under terms of confidentiality materially as protective as set forth herein.
- c. **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by Law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by Law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

22. OWNERSHIP.

- a. **Software, Documentation, and Services.** Customer recognizes that the Software may be owned in whole or in part by third parties ("**Third Party Owner(s)**") other than Hoonuit and in that case Third Party Owner(s) and Hoonuit have entered into agreements permitting Hoonuit to license the Third Party Programs. All limitations in this Agreement in favor of Hoonuit, including the limitations of warranty, remedy, and liability set forth herein, apply equally to any rights or claims Customer might try to assert against Third Party Owner(s). The Documentation and Software and all copyrights, patents, trade secrets or other intellectual property subsisting therein shall at all times be, as between the parties, the sole and exclusive property of Hoonuit. Customer shall have no right of ownership or title therein. Customer recognizes and will protect Third Party

Owner(s)' proprietary rights in the Third Party Programs in the same manner as it has agreed to protect Hoonuit's rights. Any developments derived from the Documentation, Software, Maintenance Services, or Services shall be the sole and exclusive property of Hoonuit and Customer will cooperate with Hoonuit, at Hoonuit's expense, as is necessary to perfect such ownership including, but not limited to, executing any and all documents reasonably necessary to effect and/or provide evidence of such ownership. All duties of Hoonuit to Customer under this Agreement are duties solely of Hoonuit and in no way duties of any Third Party Owner.

- b. **Customer Materials.** As between Customer and Hoonuit, the Customer Materials will be the sole and exclusive property of Customer. Any use by Hoonuit or its Affiliates of Customer's trademarks or service marks will inure to the benefit of Customer. Customer hereby grants to Hoonuit and its Affiliates a worldwide, non-exclusive, non-transferable, royalty-free right and license to use, copy, modify, display, distribute, and perform the Customer Materials in connection with performing the Services and any of Hoonuit's other obligations under this Agreement. The foregoing license may be exercised on behalf of Hoonuit by its Subcontractors.
 - c. **Customer Data.** As between Customer and Hoonuit, the Customer Data will be the sole and exclusive property of Customer. Customer grants Hoonuit and Hoonuit's Affiliates and Subcontractors an irrevocable, worldwide, royalty-free, perpetual license to use Customer Data and disclose it to third parties for the purpose of performing the Services or any other obligations of Hoonuit under this Agreement and for any other lawful business purpose of Hoonuit including, without limitation, the supplying and administering of the Service. Customer acknowledges that Hoonuit may receive compensation in exchange for disclosing Customer Data to third parties Customer will have no right or entitlement to share in such compensation. Despite any provisions of this Section 21.c. to the contrary, (a) Hoonuit, without first obtaining Customer's written consent, will not disclose Customer Data to any third party (other than its officers, directors, employees, Subcontractors, agents, and representatives) in any manner that would allow that Customer Data to be identified with Customer or any of its Authorized Users, unless such disclosure is made for the purpose of performing the Services or any other obligations of Hoonuit under this Agreement, and (b) Hoonuit will not use or disclose any Customer Data that is the PII of any Authorized User or Student in any manner that violates the Data Privacy Rules applicable to it or that is inconsistent with the applicable Hoonuit Privacy Policy available at <https://www.hoonuit.com/privacy-policy>, as revised from time to time.
 - d. **De-identified Data.** Notwithstanding anything to the contrary in this Agreement, Customer acknowledges and agrees that Hoonuit and its Affiliates may de-identify Customer Data such that it does not contain PII and does not identify Customer, or any of its Authorized Users ("**De-identified Data**"). Such De-identified Data shall be exclusively owned by Hoonuit, and Hoonuit shall be free to use De-identified Data for Hoonuit's machine learning algorithms and other business purposes.
23. **INSPECTIONS AND AUDITS.** Customer shall maintain adequate books and records necessary for an accurate determination and assessment of the Customer's compliance with the terms of this Agreement and of the fees due to Hoonuit pursuant to this Agreement.
- a. The books and records related to this Agreement may be audited by internal auditors of Hoonuit no more than once per twelve (12) consecutive months during the term by providing thirty (30) days written notice to Customer. Such notice of intent to audit shall include, without limitation, the scope, location and expected duration of the audit. Such audit may occur during reasonable business hours during the term of this Agreement and for three (3) months thereafter.
 - b. Hoonuit has the right to verify compliance with this Agreement, at Hoonuit's expense, by reviewing Customer's records and Customer's facilities during the term of this Agreement and for two (2) years after this Agreement expires or terminates. If a reporting or payment shortage of five percent (5%) or more is found, Customer will promptly reimburse Hoonuit for the shortage and the audit expenses incurred.
 - c. In the event such an audit reveals any discrepancy or error, Hoonuit shall provide Customer with written notification detailing such discrepancy within ten (10) days after such audit or finding, which is first to occur. Upon such notification, Customer will investigate the claim. After such investigation, and in no event later than one hundred twenty (120) days from the date of notification, Customer and Hoonuit shall convene to develop a mutual resolution regarding such claim which shall be agreed to by the parties in writing.
 - d. All information learned or discovered as a result of any audit shall be kept as confidential by Hoonuit and shall only be disclosed where required by Law and only to the extent required by Law and after prior written notice to Customer.

24. **COMPLIANCE WITH LAWS.** Customer, at its expense, will comply with, all Laws applicable to its business, to its use of any Hosted Materials, or any Services provided under this Agreement, to the Customer Data, or to the Customer Materials. Without limiting the generality of the foregoing, Customer agrees to comply with all Data Privacy Rules with respect to any PII of Authorized Users and Students.
25. **GOVERNMENT CONTRACT PROVISIONS.** If the Software is being licensed and delivered to the United States Government, the Software is provided subject to Restricted Rights as listed and defined in, as applicable, DFARS 252.227 7013 and FAR 52.227 14, 19. Government use, duplication or disclosure is restricted by DFARS 252.227 7013(c) and FAR 52.227 19.
26. **INDEPENDENT CONTRACTORS.** In making and performing under this Agreement, the parties are acting as independent contractors. Neither party is, nor will be deemed to be, an agent, legal representative, joint venturer, or partner of the other party for any purpose.
- a. Neither party shall have any authority to act for or to bind the other party in any respect. Hoonuit's personnel shall not be considered employees of Customer, and shall not be entitled to participate in, or receive benefits under, any of Customer's employee benefit or welfare plans.
- b. Without limiting the generality of the foregoing, Hoonuit's personnel shall not be considered employees of Customer for purposes of any state or federal Laws relating to unemployment insurance, social security, workers compensation or any regulations which may impute any obligation or liability to Customer by reason of an employment relationship.
- c. Hoonuit shall be solely responsible for providing any salary or other compensation or benefits to each of its employees and other personnel and for any insurance and taxes, including health insurance, taxes, FICA, and other governmental levies on monies in connection therewith.
27. **CAPTIONS.** The captions used in this Agreement are for reference only and do not constitute substantive matter to be considered in construing the terms of this Agreement.
28. **COUNTERPARTS.** This Agreement and any Orders or Statements of Work may be executed and delivered in counterparts, and by each party in a separate counterpart, each of which when so executed and delivered shall constitute an original and all of which taken together shall constitute one and the same instrument.
29. **GOVERNING LAW, JURISDICTION, AND VENUE.** This Agreement shall be governed by and construed in accordance with the substantive law of the State of Wisconsin, without giving effect to principles governing conflicts of law. The parties agree that the Uniform Computer Information Transactions Act shall not apply to this Agreement. Any action arising from or relating to this Agreement shall be brought exclusively in the state courts located within Outagamie County, Wisconsin or the federal courts located within the United States District Court for the Eastern District of Wisconsin. The parties hereby waive and agree to waive all objections or defenses of lack of personal jurisdiction or improper venue that otherwise might have been available in any such action, consent to the jurisdiction of such courts, and agree that they shall not bring any action in any other court.
30. **LEGAL CONSTRUCTION.** In any case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein as long as this Agreement remains a workable instrument to accomplish the intent and purposes of the parties.
31. **AMENDMENT.** The terms and conditions of this Agreement cannot be altered, amended, or modified except by a written instrument executed by all of the parties.
32. **NOTICES.** Any notices to be given hereunder by either party to the other shall be in writing and deemed delivered if delivered personally or if by mail, registered or certified, postage prepaid with return receipt requested, then three (3) days after deposit in the mail. Notices shall be addressed to the addresses of the parties first set forth above or to such other address as a party may specify from time to time.
33. **NO WAIVER.** Failure of Hoonuit to enforce at any time any provision of this Agreement shall not be construed as a waiver of such provision or of any other provision or of the right of Hoonuit to enforce such provision.

34. **INTEGRATION.** This Agreement and any Order or Statement of Work referencing this Agreement constitute the entire, final, and exclusive agreement between the parties with respect to the subject matter hereof and supersede all previous written and oral proposals, negotiations, representations, commitments, writings, agreements, and all other communications between the parties with respect thereto. Customer further agrees that any terms and conditions of any purchase order or other instrument issued by Customer in connection with this Agreement, which are in addition to or inconsistent with the terms and conditions of this Agreement, shall not be binding on Hoonuit and shall not apply to this Agreement. In the event of a conflict between an Order or Statement of Work and this Agreement, this Agreement shall control.
35. **FORCE MAJEURE.** Neither party shall be liable to the other for any damages from causes beyond its reasonable control, including, but not limited to, acts of God or the public enemy, labor disputes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the control and without fault or negligence of Hoonuit and Customer.
36. **ATTORNEY FEES.** In the event any court action is commenced by one party against the other with respect to any dispute arising out of this Agreement or any Order or Statement of Work, the prevailing party will be entitled to recover its out-of-pocket and court costs and reasonable attorney fees relating thereto. The cost of in-house legal staff will be valued at market rates for comparable services from private practitioners.
37. **NON-SOLICITATION.** During the term of this Agreement and for a period extending one (1) year after termination or expiration of the Agreement, each party agrees that it shall not either directly or indirectly solicit, recruit or hire as an employee, consultant, or independent contractor, any personnel of the other party. Remedy for any violation of this provision shall be liquidated damages in the amount equal to 100% of the employee's annual salary, including bonuses, currently in effect for the employee. The parties agree that any damages from the breach of this provision would be difficult to determine and that the remedy set forth herein is a reasonable estimate of such damages.
38. **INSURANCE.** Hoonuit agrees to maintain at its own expense, during the term of this Agreement, insurance coverage in the following minimum amounts: (a) Worker's Compensation insurance in respect of all of its employees with limits of liability and coverage not less than is required by all applicable laws, (b) Comprehensive General Liability insurance which provides coverage and insurer's liability of no less than \$1,000,000 combined single limit for injury, death and property damage resulting from each occurrence, and (c) Automobile Liability, including non-owned and hired vehicles no less than \$1,000,000 each accident. Upon request, Hoonuit shall promptly furnish to Customer valid Certificates of Insurance naming Customer as an additional insured and/or loss payee properly executed by Hoonuit's insurance company.
39. **AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY:** To the extent applicable, this contract incorporates by reference the Affirmative Action for Disabled Veterans and Veterans of the Vietnam-Era clause, 41 C.F.R. § 60-250.4; the Affirmative Action for Handicapped Workers clause, 41 C.F.R. § 60-741.4; the Equal Opportunity clause, 41 C.F.R. § 60-1.4; and the Discrimination on the Basis of Age clause, 18 C.F.R. § 1316.6; and all amendments thereto and all applicable regulations, rules, and orders issued thereunder.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have entered into this Agreement as of the date first written above.

HOONUIT I, LLC

CUSTOMER

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**EXHIBIT A
MAINTENANCE SERVICES DESCRIPTION**

1. Hoonuit shall provide Customer with Maintenance Services consisting of the following:
 - (a) Web-based submissions of incidents as agreed upon.
 - (b) Updates of the Software.
 - (c) Online Software training found in the application.
 - (d) Online knowledge base of information and solutions.
 - (e) Access to an online secure site that contains license keys, existing cases, and latest product downloads.
 - (f) the provision of guidance and troubleshooting to Customer in connection with questions and issues arising from the following:
 - Customer activities with respect to the Software:
 - Installation and Downloads: Support for installation includes providing guidance and troubleshooting in connection with Customer's downloading and installing of the Software.
 - Basic Configuration Issues: Support for configuration includes troubleshooting Customer's configuration settings for existing installations on supported platforms to ensure proper operation and connectivity.
 - Usage Issues: Hoonuit will answer Customer's "how to" questions related to standard and intended Software usage.
 - New Version Issue: Support for issues regarding replacing a previous version with a new version of the Software.
 - Efforts to Correct the Software: Hoonuit shall make commercially reasonable efforts to correct bugs or other errors in the Software. Customer acknowledges that Hoonuit is not required to correct every bug, error, or problem with the Software that it reports to Hoonuit or of which Hoonuit is otherwise made aware. To initiate a recovery request, based on failure caused by Customer, Hoonuit will need to be notified in writing of the issue. Hoonuit will communicate timeframe and availability of recovery. Hoonuit shall make commercially reasonable efforts to the issue however, Customer acknowledges that Hoonuit is not required to resolve every such request.
-
2. The following are excluded from Hoonuit's Maintenance Services obligations:
 - (a) Hosting hardware, software, environments or applications outside of what is provided by Hoonuit.
 - (b) Any responsibility for outages or performance degradation in the Customer's systems including and not limited to the student information system, finance system, human resources system, and network infrastructure that may cause issues to Hoonuit data quality and processing.
 - (c) Altered or modified Software and hardware or any Customizations. As a result, any performance or quality degradations as a result of Customizations made by the Customer or its representatives is entirely Customer's responsibility.
 - (d) Defects due to accident, hardware malfunction, abuse or improper use.
 - (e) Any version of the Software for which Maintenance Services have been discontinued by Hoonuit.
 - (f) Evaluation versions of the Software or other Software provided at no charge.
 - (g) Training, Customization, integration and any issues arising from non-standard usage of the Services.
 - (h) Any on-site services or remote access services.

Any changes in scope to deliver additional content, software, services or environments may increase hosting costs.

Support Priority and Resolution Response:

Priority	Description	Response Expectation
Critical	Designates a problem that impacts the entire customer population or an entire customer base such as system, full product or database level failures.	5 business days
High	Services are available but may be impacted for a segment of the customer population. Service request is time sensitive and generally has other dependencies attached to them.	10 business days
Medium	Service issues which impact a specific vendor or a small portion of the vendor base.	25 business days
Low	General inquiries, requests to change account information or enhancements. These are not product related issues.	65 business days

**EXHIBIT B
HOSTING SERVICES DESCRIPTION**

- Private hosted application service: Customer will have its own server(s) providing access to Customer's database instance.
- Systems management services: Updates will be applied to the Software, to include:
 - Ongoing systems monitoring.
 - Operating and database management system updates, patches, and configuration changes.
 - Routine audits of systems and Software.
 - Backups and restores.
 - Installing and configuring new hardware and Software.
 - Administering setup of active directory authentication.
 - Troubleshooting any reported problems and initiating and coordinating corrective actions on Hoonuit standard items.
 - Monitoring system performance and tuning the system as appropriate on Hoonuit standard items.
 - Ensuring the application is running and users can log in.
 - Maintaining disaster recovery and business continuity plans and executing such plans in a disaster event in accordance with Microsoft Azure Cloud Computing Services.
- Product maintenance: Application updates will be performed based on agreed upon schedules.
 - Maintenance windows will be communicated ahead of time and outside of school hours.
 - Advance notification to the agency of change events, its nature and expected timetable.
 - Written notice of application changes and modifications to screens or code.
 - Pre-testing of changes, including any modifications to screen or code in Hoonuit or Customer non-Production environments.
 - Coordination of the implementation of any change events with the district.
- Backups: Nightly backups.
- Availability and Up-time: 99% up time during the typical school day unless down time is caused by Microsoft or Customer.

EXHIBIT C
ENROLLMENT ANALYTICS SERVICES DESCRIPTION

- The Premier Services Package
 - Description:
 - The Premier package annually integrates the professional development of student enrollment projections with full access to location analytic features.
 - Premier features include:
 - Two 10-year District-wide and School-by-grade Projections annually; one conservative and the other moderate. In districts funded on a per pupil basis, the conservative projection is suitable for budget planning and staffing, and the moderate projection suitable for facilities planning.
 - Intra-district (open enrollment/school-of-choice) and inter-district enrollment patterns.
 - Projections by attendance area
 - A final executive report of findings designed for use with Customer administrative staff and boards.
 - Full access to all functions in the Software applicable to Enrollment Analytics Services.
 - Full access to the boundary change analysis tools which allow the development of alternative geographic attendance areas and derive a report of future projected enrollment within the defined scenario area.
 - Full access to all of the unique efficiency calculators.
 - Full access to all of the community demographic variables that are integrated into the system along with all of the predefined reports.
 - Parent assigned school lookup.
 - If selected by Customer, this package will be performed under this Agreement and billed pursuant an Order.
- The Select Services Package
 - Description
 - The Select package bi-annually integrates the professional development of student enrollment projections with full access to location analytic features.
 - Select features include:
 - Two District-wide and School-by-grade Projections biennially (once in a two-year period); one conservative and the other moderate. In districts funded on a per pupil basis, the conservative projection is suitable for budget planning and staffing, and the moderate projection suitable for facilities planning.
 - Intra-district (open enrollment/school-of-choice) and inter-district enrollment patterns.
 - Projections by attendance area.
 - A final executive report of findings designed for use with Customer administrative staff and boards.
 - Full access to all functions in the Software applicable to Enrollment Analytics Services.
 - Full access to boundary change analysis tools which allow the development of alternative geographic attendance areas and derive a report of future projected enrollment within the defined scenario area.
 - Full access to all of the unique efficiency calculators.
 - Full access to all of the community demographic variables that are integrated into the system along with all of the predefined reports.
 - Parent assigned school lookup
 - If selected by Customer, this package will be performed under this Agreement and billed pursuant an Order.
- The Small District Services Package
 - Description:
 - The Small District Services package is designed exclusively for small school districts with enrollments of 2,500 students or less. This package integrates the professional generation of student enrollment projections with the many location analytic features.
 - Small District features include:
 - One 5-Year conservative District-wide and School-by-grade Projection annually.
 - Intra-district (open enrollment) and Inter-district enrollment patterns.
 - A final executive report of findings designed for use with Customer Administrative Staff and Boards.
 - Full access to all functions in the Software applicable to Enrollment Analytics Services.
 - Parent assigned school lookup.
 - Access to many of the community demographic variables that are integrated into the system along with all of the predefined reports.
 - If selected by Customer, this package will be performed under this Agreement and billed pursuant an Order.

- Additional Services (Optional)
 - Residential Housing Development Research
 - The option of Residential Development Research for integration into the enrollment forecasts is available upon request and pursuant an Order. Inclusion would include location mapping of expected projects, and full reporting on all proposed residential development projects phased over time.
 - Not all school districts are impacted by new housing development. For clients who have been or may be impacted and request this service, Hoonuit or its applicable Affiliate will contact government agencies and developers on behalf of the district to gather the data required to quantify the potential impact of new housing.
 - If Customer purchases Residential Development Research Services, Hoonuit and/or its Affiliates will begin the research projects each year in late spring and completes all research by September so that the data is available for the fall projection season.
 - Custom GIS Technical Services
 - The following services are considered Custom GIS Technical services:
 - Attendance Area Changes: As part of a standard agreement, Customer can modify attendance areas once each year and this service is included in the base fee. If Customer should require additional changes outside the normal cycle of client updating, it would be considered custom GIS work and Customer would be invoiced separately.
 - Custom Map Layers: Customer may request the creation of additional map layers for analysis, print, or PowerPoint presentations. Possibilities include: Special Assessment Districts; School or municipal planning areas; Natural or manmade hazard features such as flood zones, pipelines, or other features which require safety buffer zones; Board Trustee Areas; District study areas; Other custom features. Hoonuit and/or the applicable Hoonuit Affiliate can add these custom map layers to any existing district study. These layers can be activated or deactivated just like school attendance boundaries. Additionally, most custom layers can be queried for enrollment, ethnicity and census updates and projections. Upon request, Hoonuit or the applicable Hoonuit Affiliate will provide the district with a project scope proposal based upon the assessed complexity of the project. Such projects are invoiced separately.
 - Custom Point Plotting: Customer may request that special features be geocoded so that they can be point-plotted for mapping and analysis. Such projects are invoiced separately.
 - Additional Student Attribute Plotting, Reporting and Analysis: Customer may request that additional attributes can be appended to student data files. Such projects are invoiced separately.
 - Boundary Configuration Consulting
 - Pursuant an Order, Hoonuit and its Affiliates may also provide these additional consulting services to assist in the generation of multiple scenarios and/or participate in or lead community reconfiguration committee processes.
 - Student Generation Rate Studies
 - Student generation rates will determine how many students are expected out of new housing. Some districts have these already (by housing product type and grade level). For those that do not, we can either use our standard default rates or as an enhancement, Hoonuit and its Affiliates can generate custom student generation rates based upon product type that is anticipated and the current generation of students by similar product type. If these studies are selected by Customer, they will be performed under this Agreement and billed pursuant an Order.
 - School Capacity Studies
 - A School Capacity Study generates multiple scenarios that consider alternative impacts of changes in underlying variables such as special use classrooms, class size by grade level, half-day or extended day kindergarten, number of relocatable classrooms, projected enrollment, spaces for teacher prep time, etc. If these studies are selected by Customer, they will be performed under this Agreement and billed pursuant an Order.