

**CALIFORNIA SCHOOL BOARDS ASSOCIATION
AGENDA ONLINE "PREMIUM"
SERVICE AGREEMENT**

This Agreement is entered into by and between the California School Boards Association ("CSBA") and Sylvan Union ESD of Modesto, California ("Licensee") for the use of CSBA's Agenda Online platform in accordance with the terms and conditions contained herein. This Agreement shall be effective on the date executed by Licensee.

1. Term and Renewal. CSBA shall provide the services described in this Agreement for a two (2) year period from July 1, 2018 to June 30, 2020. THIS AGREEMENT MAY BE RENEWED ANNUALLY THEREAFTER BY LICENSEE PAYING TO CSBA THE AMOUNT SET FORTH IN THE RENEWAL NOTICE/INVOICE SENT BY CSBA TO LICENSEE NO LATER THAN 60 DAYS PRIOR TO THE EXPIRATION DATE OF THIS AGREEMENT.

2. Grant of License. CSBA hereby grants Licensee a non-exclusive, non-transferable use license to the Premium version of CSBA's Agenda Online, a web-based application that enables Licensee to create board meeting agendas, attach or link supporting documents, record minutes and publish these items on the web for public viewing. This license is a non-perpetual license that must be renewed in accordance with the terms of this Agreement. Licensee is authorized to use Agenda Online in executable format for its own use, subject to the terms and conditions of this Agreement. All rights not specifically granted to Licensee by this Agreement are reserved to CSBA.

3. Fees. For the license and the training and support services received pursuant to this Agreement, Licensee agrees to pay an annual fee, which as of the date of this Agreement is \$6,000. Provided however that, for being an Agenda Online client prior to January 1, 2018, Licensee shall receive the license at a promotional rate of \$2750 for the first year (July 1, 2018 – June 30, 2019) and for free for the second year (July 1, 2019 – June 30, 2020). To renew this Agreement thereafter, Licensee shall pay the full annual fee of \$6,000 or other amount then in force.

Licensee shall pay all invoices in full upon receipt. Licensee shall also pay any applicable fees, federal, state, provincial or local taxes that may apply to the use of the Agenda Online platform or application, or any maintenance or support services provided by CSBA pursuant to this Agreement. CSBA reserves the right to withhold or cancel access to Agenda Online if said fees are not paid within 60 days of Licensee's receipt of an invoice from CSBA.

4. Agenda Online User Accounts. Licensee is authorized to create an unlimited number of user accounts for its employees and officers, not more than two of whom shall be designated "Meeting Managers" to manage the creation, uploading, and publishing of meeting agendas, minutes and related documents on behalf of Licensee's governing body or any related committee or subcommittee.

Licensee is responsible for creating user accounts, determining access levels for each user, and informing all users of their obligations and responsibilities pursuant to this Agreement, including, but not limited to, maintenance of CSBA's trade secrets and proprietary rights and obligations. Licensee shall take reasonable measures to prevent unauthorized access to Agenda Online, including protecting its passwords and other log-in information.

**CALIFORNIA SCHOOL BOARDS ASSOCIATION
AGENDA ONLINE "PREMIUM"
SERVICE AGREEMENT**

5. Training and Technical Support. Upon receipt of this signed Agreement, CSBA will contact Licensee to begin development of Licensee's Agenda Online site and to schedule training. Licensee may access online training webcasts and videos through CSBA's website. CSBA will also provide one (1) day of in-person training at Licensee's facility. CSBA may, upon request, provide additional customized training online at a rate of \$75 per hour, or in-person at a rate of \$500 per day. Additional training will be billed upon completion. CSBA will provide timely support to Licensee for the Agenda Online service. CSBA shall not be responsible for supporting third party software applications installed on Licensee's computers.

6. Proprietary Rights. Licensee acknowledges that the Agenda Online source code is confidential and constitutes a trade secret and proprietary information of CSBA. Licensee has a right to access Licensee's information hosted or stored on Agenda Online, but acknowledges and agrees that it holds no proprietary rights related to the Agenda Online software or application. Agendas and supporting documents created by Licensee on or uploaded to Agenda Online belong to Licensee, and Licensee may use them as it sees fit, subject to applicable state and federal law and local policy. Licensee agrees not to: (a) copy, (b) duplicate, (c) reverse engineer, (d) decompile, (e) decode, (f) decrypt, (g) disassemble, (h) record, (i) alter, (j) merge, (k) adapt, (l) translate, (m) create any derivative works, or (n) otherwise reproduce any part of Agenda Online or authorize or attempt to do any of the foregoing. Licensee agrees not to sell, rent, license, distribute, transfer, directly or indirectly permit the sale, rental, licensing, distribution, use or transfer of the license or any right granted thereby, including permitting the use or dissemination of documentation related to Agenda Online, to any other party, either during the term of this Agreement or at any time thereafter.

7. Data and Records. CSBA has no responsibility or liability for the accuracy of documents, data, or information uploaded to Agenda Online or processed by Agenda Online users. For the duration of this Agreement, CSBA agrees to take reasonable steps to preserve and protect Licensee information uploaded to Agenda Online. For as long as Licensee continues to subscribe to Agenda Online, CSBA agrees to store each of Licensee's uploaded agendas and supporting documents for a period of up to 20 years.

Licensee acknowledges that the cost of storing Licensee's documents, data, and information is beyond CSBA's control. CSBA reserves the right to adjust pricing to reflect Licensee's storage requirements.

CSBA may delete all of Licensee's stored information ninety (90) days after the termination of this Agreement.

Licensee acknowledges that documents, data, and information uploaded to Agenda Online are not the official Licensee record. Licensee also acknowledges its responsibility to create an archive of such materials when Licensee desires them to serve as official Licensee records. Licensee agrees not to hold CSBA liable for any damage to, any deletion of, or any failure to store Licensee's information.

**CALIFORNIA SCHOOL BOARDS ASSOCIATION
AGENDA ONLINE "PREMIUM"
SERVICE AGREEMENT**

CSBA is not the custodian of Licensee's records for any purpose, and will direct any third party request for Licensee's information or records to Licensee. In the event Licensee records are requested pursuant to a lawfully issued subpoena or court order, to the extent possible, CSBA agrees to inform Licensee prior to responding.

Notwithstanding the provisions of this Agreement, CSBA may access, compile, record and/or distribute statistical analyses and reports utilizing aggregated data derived from information and data related to Licensee's use of Agenda Online.

8. Warranty. CSBA warrants that Agenda Online will work in substantial accordance with purposes expressed in the Grant of License clause above. CSBA provides no other warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability, satisfactory quality, accuracy, and fitness for a particular purpose. Licensee assumes all responsibility to provide and upgrade any hardware, computer operating system and/or software required to access Agenda Online. CSBA does not warrant that functions contained in Agenda Online will meet Licensee's business requirements or that the operation of the service will be uninterrupted or error free.

9. Limit of Liability. In the event of a breach of this Agreement or the warranty stated above, Licensee's damages shall be limited to the annual fee paid by Licensee. In no event shall CSBA be liable for any consequential damages (including damages for loss of profits and/or savings, business interruption, loss of business information or other pecuniary losses) arising from the use or inability to use the Agenda Online service.

10. Termination. This Agreement may be terminated by either party by giving the other party 60 days written notice. CSBA may also terminate this Agreement if Licensee breaches any provision of this Agreement. If termination results from Licensee's breach or request the annual fee paid by Licensee will not be refunded by CSBA. Termination for Licensee's breach shall not alter or affect CSBA's right to exercise any other remedies available in law or equity for the breach.

11. Compliance with Laws. Licensee is solely responsible for complying with state and federal laws, including the Americans with Disabilities Act of 1990 and those laws pertaining to open meetings and public information, including, but not limited to, the Ralph M. Brown Act and the California Public Records Act.

12. Indemnification and Duty to Defend. Except as otherwise provided in this Agreement, each party shall indemnify, defend, and hold harmless the other party, and its directors, officers, employees, agents and representatives, from and against any and all liabilities, obligations, losses, damages, penalties, fines, claims, actions, suits, costs and expenses, (including legal fees and expenses) of any kind whatsoever imposed on, asserted against, incurred or suffered by the other party, or its directors, officers, employees, agents or representatives by reason of damage, loss or injury (including death) to persons or property resulting in any way from (a) any negligent or intentional act by it or any of its directors, officers, employees, agents or representatives in its or their performance of Services hereunder; or (b) any neglect, omission or failure to act when under

**CALIFORNIA SCHOOL BOARDS ASSOCIATION
AGENDA ONLINE "PREMIUM"
SERVICE AGREEMENT**

a duty to act on its part or the part of any of its directors, officers, employees, agents or representatives in its or their performance of Services hereunder.

It is expressly understood and agreed that in any third party action to obtain Licensee's records from CSBA which is opposed by Licensee, any cost to CSBA in opposing the request, including, but not limited to, attorney's fees and costs, shall be paid by Licensee. It is also expressly understood and agreed that no personal liability whatsoever shall attach to any member of CSBA's Board of Directors, or to any of the officers, employees, agents or representatives thereof, by virtue of this Agreement.

13. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than CSBA and Licensee.

14. Modification. The scope of work and any other terms of this Agreement may be modified only by a written agreement signed by both parties.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

16. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties. There are no oral understandings or other terms or conditions as regards to the subject matter hereof and neither party has relied upon any representation, express or implied, that are not otherwise contained in this Agreement. This Agreement supersedes all prior understandings, whether written or oral, and any such terms or conditions are deemed merged into this Agreement.

IN WITNESS WHEREOF, the parties do hereby certify that they are duly authorized to execute this Agreement.

"CSBA"

"LICENSEE"

**California School Boards Association
(Federal Tax ID: 94-1510492)**

Sylvan Union ESD

By: _____
Signature

By: _____
Signature

Robert Tuerck
Assistant Executive Director,
Policy and Governance Technology Services

Name (print)

Title of Official