



Master Subscription Agreement

PLEASE READ THIS MASTER SUBSCRIPTION AGREEMENT CAREFULLY BEFORE ACCEPTING THE TERMS AND CONDITIONS OF THIS MASTER SUBSCRIPTION AGREEMENT, ANY ADDITIONAL TERMS AND ANY ORDER FORMS ENTERED INTO BY YOU AND TITAN SCHOOL SOLUTIONS INC. ("TITAN") ARE COLLECTIVELY REFERRED TO AS THE "AGREEMENT." UNLESS OTHERWISE DEFINED HEREIN, CAPITALIZED TERMS SHALL HAVE THE MEANINGS SET FORTH IN SECTION 11 BELOW.

BY ACCEPTING, YOU ARE AGREEING ON BEHALF OF THE ENTITY ORDERING THE TITAN PRODUCT ("YOU") THAT YOU WILL BE BOUND BY AND BECOME A PARTY TO THE AGREEMENT. IF YOU DOES NOT AGREE TO ALL OF THE TERMS OF THE AGREEMENT OR DO NOT HAVE THE AUTHORITY TO BIND THIS AGREEMENT, DO NOT SIGN (EITHER MANUALLY OR ELECTRONICALLY) THE ORDER FORM ISSUED TO YOU BY TITAN.

1. Subscription.

1. Use of the TITAN Product.

1. Terms of Use. The parties acknowledge and agree that the terms and conditions contained in this Agreement and the terms of use, which are attached in Exhibit A, will govern Your use of the TITAN Product for the Subscription Term, unless explicitly stated otherwise in a written agreement between the parties.
2. TITAN Product Features and Components. TITAN reserves the right to make modifications to the TITAN Product or particular features or components of the TITAN Product, from time to time, at its sole discretion. TITAN will exercise reasonable commercial efforts to notify You of any such material modifications to the TITAN Product, provided however, that TITAN will not have any liability for failure to provide such notice.

2. Support. During the Subscription Term, and at no additional charge to you, TITAN shall provide you technical assistance by telephone on use of the Software, the identification of Software problems, and the reporting of Errors. TITAN will respond to phone calls from Support Contacts, identified by You, pursuant to the terms, which are attached in Exhibit B (the "Support Services"). You shall designate in writing to TITAN no more than three (3) technical contacts to request and receive telephone support services from TITAN.
3. Professional Services. If purchased by you and set forth on an Invoice, TITAN will provide services which will enable attendees to use the Software which are periodically held at TITAN's facilities or at other locations as TITAN and you may agree ("Professional Services"). In consideration of payment of the fees associated with the Professional Services set forth on an Invoice, you are entitled to receive the number of hours of Professional Services as indicated on the Invoice. You shall be solely responsible for all transportation, lodging, meals or any other expenses incurred by TITAN or your Users attending such Services. If you purchased hardware from TITAN, Professional Services may include installation of hardware as well. In the event You cancel or postpone scheduled Professional Services within 14 days of the agreed upon date, You are responsible for all expenses incurred by TITAN and fifty-percent (50%) of the scheduled Professional Services fee. All quoted installation dates, including dates related to terms such as "installation," "completion of training" and "live," if any, are estimates only.
4. Your Responsibilities. You shall: (a) be responsible for all Your Users' compliance with the terms and conditions of this Agreement, (b) be solely responsible for the accuracy, integrity, and legality of Your Data and the means by which it acquires and uses such Your Data, (c) use the TITAN Product only in accordance

with the applicable online user guide and applicable laws, rules, regulations (including, without limitation, export, data protection and privacy laws, rules and regulations) and any TITAN Product documentation, (d) use commercially reasonable efforts to prevent unauthorized access to or use of the TITAN Product, and (e) notify TITAN in writing immediately of (i) any unauthorized use of, or access to, the TITAN Product or any User account or password thereof or (ii) any notice or charge of noncompliance with any applicable law, rule or regulation asserted or filed against You in connection with Your Data. For the avoidance of doubt, User accounts and passwords are specific to individual Users, and under no circumstances may User accounts or passwords be shared among or by different Users; provided, however, that Your administrator(s) may reassign a User account during the Subscription Term, if a former User no longer requires a User account.

5. Restrictions. You shall not, directly or indirectly: (a) sublicense, resell, rent, lease, distribute, market, commercialize or otherwise transfer rights or usage to the TITAN Product or any modified version or derivative work of the TITAN Product created by or for You, (b) provide the TITAN Product, or any modified version or derivative work of the TITAN Product created by or for You, on a timesharing, service bureau or other similar basis, (c) remove or alter any copyright, trademark or proprietary notice in the TITAN Product, (d) develop Forked Software, (e) copy any features, functions or graphics of the TITAN Product for any purpose other than what is expressly authorized in this Agreement, (f) modify, remove or disable any portion of the Critical Control Software, (g) send, store, or authorize a third party to send or store spam, unlawful, infringing, obscene or libelous material, or Malicious Code, (h) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the TITAN Product or Your Data contained therein, (i) use any Intellectual Property Rights protected by applicable laws and contained in or accessible through the TITAN Product for the purpose of building a competitive product or service or copying its features or user interface, or (j) use the TITAN Product, or permit it to be used, for purposes of product evaluation, benchmarking or other comparative analysis intended for publication without TITAN's prior written consent.
6. Third Parties. You may use third party contractors to assist with the installation, use and modification of the TITAN Product for Your own internal business use, including creation of Modifications on Your behalf. You agree not to disclose any Confidential Information of TITAN to any contractor or allow any subcontractor to create Modifications unless and until the contractor has agreed in writing to (a) protect the confidentiality of such Confidential Information in the manner required by Section 6 and then only to the extent necessary for the contractor to perform those services subcontracted to it, and (b) assign all such contractor's rights, title and interests (including all Intellectual Property Rights) in such Modifications to You to ensure You can comply with Section 3.1.1. You will be solely responsible for all payments to its contractors and will remain responsible for compliance by its contractors with the terms and conditions of this Agreement.

2. Third-Party Software; Third-Party Modules.

1. Third-Party Software. The TITAN Product utilizes or includes certain Third Party Software. Your use of the TITAN Product, including all Third Party Software accessible via APIs, is governed by the applicable Third-Party Software terms and conditions. If a Third Party Software provider requires TITAN to remove such software from the TITAN Product due to violation of applicable law or third-party rights, You agree to cooperate with TITAN to ensure its removal from the TITAN Product and Your systems.
2. Third-Party Modules. You may use Third-Party Modules to add functionality to the TITAN Product, provided that such use is limited to internal use by You in a manner that does not violate any provisions of Section

1.6. Any use by You of Third-Party Modules and any exchange of Your Data between You and the Third-Party Module provider are solely between You and the Third-Party Module provider. TITAN does not warrant or support Third-Party Modules.

3. Third-Party Privacy Policies. You understands and agrees that any of Your Data exchanged with Third-Party Software or Third-Party Module is governed by that provider's respective privacy policy.
4. Third Party APIs. Features that interoperate with third party services (such as Google) depend on the continuing availability of the API and program for use with the TITAN Product. If a third party ceases to make the API or program available on reasonable terms to TITAN, TITAN may cease providing such third party features without entitling You to any refund, credit, or other compensation.

3. **Proprietary Rights and Data Protection.**

1. Ownership.

1. Ownership of TITAN Product and Modifications. TITAN owns all right, title and interest, including all Intellectual Property Rights, in and to the TITAN Product, any and all Modifications (collectively, the "TITAN Property"). You hereby does and will assign to TITAN all right, title and interest worldwide in the Intellectual Property Rights embodied in any and all Modifications. To the extent any of the rights, title and interest are not assignable by You to TITAN, You grant and agrees to grant to TITAN an exclusive, royalty-free, transferable, irrevocable, worldwide, fully paid-up license (with rights to sublicense through multiple tiers of sublicensees) under Your Intellectual Property Rights to use, disclose, reproduce, license, sell, offer for sale, distribute, import and otherwise exploit the Modifications in its discretion, without restriction or obligation of any kind or nature. Except as expressly stated otherwise in this Agreement, TITAN retains all of its right, title and ownership interest in and to the TITAN Property, and no other Intellectual Property Rights or license rights are granted by TITAN to You under this Agreement, either expressly or by implication, estoppel or otherwise, including, but not limited to, any rights under any of TITAN'S or its Affiliates patents.
2. Trademarks. TITAN's name, logo, trade names and trademarks are owned by TITAN, and no right is granted to You to use any of the foregoing except as expressly permitted herein or by written consent of TITAN.
3. Freedom to Operate and Innovate. Nothing in this Section 3 shall inhibit, hamper, encumber or otherwise impede TITAN'S freedom to create Modifications or improve, extend and/or modify any and all TITAN Products.
4. Suggestions. You or your Users may, from time to time, provide suggestions, enhancement or feature requests or other feedback to TITAN with respect to the TITAN Property or other TITAN products, services or related documentation (whether or not such is disclosed or delivered by TITAN to You under this Agreement) (collectively, "Feedback"). You agrees that all Feedback is and shall be given by You is entirely voluntarily. TITAN shall be free to use, disclose, reproduce, license or otherwise distribute and exploit the Feedback in its discretion, without restriction or obligation of any kind or nature. Feedback, even if designated as confidential by You, shall not create any obligation of confidentiality for TITAN, unless TITAN expressly agrees so in writing.

2. Your Data/Your Information.

1. Ownership of Your Data. You owns and retains all Intellectual Property Rights in and to Your Data.
 2. Data Processing. You grant TITAN the right to use, access and process Your Data solely to the extent necessary for TITAN to provide the TITAN Product and services to You, including, without limitation to address service or technical problems, or at Your request, in connection with providing Support Services to You. TITAN agrees not to use, access, disclose or process any of Your Data, except (a) to perform the obligations under this Agreement, (b) comply with applicable laws, and (c) in accordance with the Terms of Use in Exhibit A, attached hereto.
 3. Non-Modification and Non-Disclosure. TITAN shall not (a) modify Your Data, or (b) disclose Your Data except as compelled by law in accordance with Section 6.1, as expressly set forth in this Agreement or as otherwise permitted in writing by You.
 4. Business Information. You agree to allow TITAN and its Affiliates to store and use Your business contact information, including names, business phone numbers, and business e-mail addresses, anywhere it does business. Such information will be processed and used in connection with TITAN'S business relationship, and may be provided to contractors acting on TITAN'S behalf, TITAN'S business partners who promote, market and support certain TITAN products and services, and assignees of TITAN and its subsidiaries for uses consistent with TITAN'S business relationship.
3. Data Protection.
1. Relationship of the Parties. To the extent that Your Data contains personal data about any living individual ("Data"), TITAN will process that Data only as a Data Processor acting on behalf of You (as the Data Controller) and in accordance with the requirements of this Agreement.
 2. Your Compliance with Privacy Laws. You will at all times comply in full with the requirements of any applicable privacy and data protection laws.
 3. Purpose Limitation. TITAN will process the Data in accordance with Your instructions under Applicable Privacy Law(s) and will not: (a) assume any responsibility for determining the purposes for which and the manner in which the Data is processed, or (b) process the Data for its own purposes.
 4. Usage Data.
 - (a). In the course of providing You with the services described in the Agreement, TITAN may also collect, use, process and store diagnostic and usage related content from the computer, mobile phone or other devices Your Users use to access the TITAN Product or Service. This may include, but is not limited to, IP addresses and other information like internet service, location, the type of browser and modules that are used and/or accessed (the "Usage Data"). Usage Data does not, however, include Your Data.
 5. Aggregated Data Use. Notwithstanding Sections 3.3.3 or 3.3.4, You agree that TITAN may process the Data and Usage Data to create and compile anonymized, aggregated datasets and/or statistics about the TITAN products or services in order to: (a) maintain and improve the performance and integrity of TITAN products or services, (b) understand which TITAN products or services are most commonly deployed and preferred by customers and how customers interact with TITAN products or services, (c) identify the types of TITAN services that may require additional maintenance or support, and (d) comply with all regulatory, legislative and/or contractual requirements, provided

in each case that such aggregated datasets and statistics will not enable You or any living individual to be identified.

6. Security. TITAN will have in place and will maintain throughout the Term, appropriate technical and organizational measures against accidental or unauthorized destruction, loss, alteration or disclosure of the Data, and adequate security programs and procedures to ensure that unauthorized persons will not have access to any equipment used to process the Data.
7. Subprocessing. You authorizes TITAN to subcontract processing of Data under this Agreement to a third party provided that: (a) TITAN flows down its obligations under this Section 3.3, to protect the Data in full, to any subcontractor it appoints, such that the data processing terms of the subcontract are no less onerous than the data processing terms set out in this Section 3.3, and (b) TITAN will remain fully liable to You for the acts, errors and omissions of any subcontractor it appoints to process the Data.
8. Adequacy. TITAN will at all times provide an adequate level of protection for Data that it processes on behalf of You.
9. HIPAA and PHI in Relation to TITAN Products. You understand and acknowledges that neither the Service nor the TITAN Products or systems are configured to receive and store personal health information ("PHI"), as that term is defined under the Health Insurance Portability and Accountability Act ("HIPAA") and that TITAN is neither a "Covered Entity" nor a "Business Associate," as those terms are defined in HIPAA. As such, You agree, on behalf of itself and its Users, not to use the TITAN Products or provide access to or submit any PHI to TITAN when requesting technical and or Support Services, in either case, to, directly or indirectly, submit, store or include any PHI as part of the Your Data. You agree that TITAN may terminate this Agreement immediately, if You are found to be in violation of this Section.
10. Family Educational Rights and Privacy Act (FERPA). TITAN shall comply in all respects with the Family Educational Rights and Privacy Act (FERPA) and all other state and federal laws applicable to the security and confidentiality of pupil records. TITAN will designate and train responsible individuals on ensuring the security and confidentiality of pupil records and TITAN will establish and validate that security protocols that are in use at their facilities or leased facilities meet or exceed the stated and expected security surrounding FERPA which include firewalls, intrusion detection, web based security and authentication protocols. In addition, TITAN will provide such information reasonably requested by You in order for You to verify TITAN's compliance with FERPA and such other state and federal laws applicable to the security and confidentiality of pupil records.
11. Security Breach: In the event of a security breach, TITAN will notify You and the parents with the extent of the breach, time of the breach, and steps taken to ensure their security and privacy. TITAN will notify those affected within 48 hours. TITAN will notify the Child Nutrition Director via telephone & email; parents will be notified via email.

4. **Payment.**

1. Fees and Payment. You agree to pay all fees specified in the relevant Order Form. Except as otherwise provided, fees set forth in each Order Form hereunder will be: (a) fixed during the Subscription Term set forth in such Order Form, (b) quoted and payable in United States dollars, and (c) non-cancelable and non-refundable. Fees are due thirty (30) days from the invoice date, unless otherwise noted in an Order Form.

You agree to provide TITAN with complete and accurate billing and contact information and to notify TITAN of any changes to such information.

2. **Additional Licenses.** Additional Licenses may be added during any given month at the then-current Subscription fee. You understand and agree that You will be charged a pro-rata fee for the initial month in which Licenses are added and for each of the monthly periods remaining in the then-current Subscription Term. The Subscription Term for the additional Licenses subscriptions will terminate on the same date as the pre-existing Subscriptions. You will be responsible for submitting a new Order Form to TITAN to request the additional Licenses during the Subscription Term. You also understands and agree that the number of Subscription Licenses purchased under a specific Order Form cannot be decreased during the relevant Subscription Term set forth on such Order Form.
3. **Renewal.** All fees required for renewal of a Subscription Term will be reflected in a quotation issued by TITAN in advance of the expiration of the current Subscription Term (each a "**Renewal Quote**"), and any pricing or changes in the number of Licenses for such renewal Subscription Term will be reflected in the Renewal Quote. Fees for any subsequent renewals shall be set at the then-current TITAN pricing, unless otherwise stated on the Order Form, Renewal Quote or otherwise agreed to in writing by the parties.
4. **Overdue Charges.** Overdue amounts are subject to interest at a rate of one percent (1.0%) per month, or the maximum rate permitted by law, whichever is lower. If any charge owing by You to TITAN is thirty (30) days or more overdue, TITAN may, without limiting its other right and remedies, suspend services until such amounts are paid in full.
5. **Taxes.** Unless otherwise provided, fees specified in quotes or Order Forms, do not include any Taxes, and You are responsible for payment and reimbursement of all Taxes associated with its purchases hereunder.

5. Term and Termination.

1. **Term.** Unless otherwise provided in an Order Form, this Agreement commences on the Effective Date and continues for a period of one (1) year thereafter (the "**Initial Term**"). Upon expiration of the Initial Term, this Agreement will automatically renew for additional one (1) year periods (each a "**Renewal Term**"), unless one party provides the other party with written notice of non-renewal a minimum of ninety (90) days prior to the expiration of the then-current term. The Initial Term, together with each Renewal Term, is referred to as the "**Term**" for purposes of this Agreement.
2. **Termination by You or TITAN.** Either party may terminate this Agreement and any then-current Order Forms prior to the end of a Subscription Term if the other party: (i) materially breaches its obligations hereunder and, where such breach is curable, such breach remains uncured for thirty (30) days following written notice of the breach or (ii) becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.
3. **Effect of Termination.** No refunds of payments will be made, unless termination of this Agreement and any then-current Order Forms is a result of a breach by TITAN under Section 5.2, in which case You will be entitled to a refund of the pro rata portion of fees associated with the remainder of the Subscription Term. You understand and agree that upon expiration of the Subscription Term or termination of this Agreement, whichever occurs first, the rights granted under this Agreement and, in connection with any then-current Order Forms, will be immediately revoked and TITAN may immediately deactivate Your account. You acknowledge and agree that TITAN may keep copies of Your Data solely to the extent necessary for the performance of its obligations under this Agreement. In no event shall any termination relieve You of the

obligation to pay any fees payable to TITAN for the period prior to the effective date of termination, unless otherwise stated in this Agreement.

4. Surviving Provisions. Sections 1.5, 3.1, 3.3.4(a), 3.3.4(b), 3.3.5, 4, 5.4, 6, 7.3, 8, 9, 10, 11 and 12 shall survive termination or expiration of this Agreement.

6. Confidentiality.

1. Confidentiality. The parties acknowledge that in the course of performing their obligations under this Agreement, each may receive Confidential Information. Each party covenants and agrees that neither it nor its agents, employees, officers, directors or representatives will disclose or cause to be disclosed any Confidential Information of the Disclosing Party, except (a) to those employees, representatives, or contractors of the Receiving Party who require access to the Confidential Information to exercise its rights under this Agreement and who are bound by written agreement, with terms at least as restrictive as these, not to disclose third-party confidential or proprietary information disclosed to such party, or (b) as such disclosure may be required by law or governmental regulation, subject to the Receiving Party providing to the Disclosing Party written notice to allow the Disclosing Party to seek a protective order or otherwise prevent the disclosure. Nothing in this Agreement will prohibit or limit the Receiving Party's use of information: (i) previously known to it without obligation of confidence, (ii) independently developed by or for it without use of or access to the Disclosing Party's Confidential Information, (iii) acquired by it from a third party that is not under an obligation of confidence with respect to such information, or (iv) that is or becomes publicly available through no breach of this Agreement. The Receiving Party acknowledges the irreparable harm that improper disclosure of Confidential Information may cause; therefore, the injured party is entitled to seek equitable relief, including temporary restraining order(s) or preliminary or permanent injunction, in addition to all other remedies, for any violation or threatened violation of this Section. The terms of this Agreement, Original Code and the structure, sequence and organization of the TITAN Product are Confidential Information of TITAN or its licensors.
2. Destruction. Within five (5) days after a Disclosing Party's request, the Receiving Party shall return or destroy the Disclosing Party's Confidential Information; provided, however, that the Receiving Party shall be entitled to retain archival copies of the Confidential Information of the Disclosing Party solely for legal, regulatory or compliance purposes unless otherwise prohibited by law.

7. Warranties, Exclusive Remedies and Disclaimers.

1. TITAN Warranties. TITAN warrants that (a) it has the legal power to, and hereby does, enter into this Agreement, (b) the TITAN Product shall perform materially in accordance with the online user guide for the applicable TITAN Product, and (c) TITAN will use commercially reasonable measures to detect whether the TITAN Product contains any Malicious Code. If the TITAN Product does not conform to the warranty specified in Section 7.1(b) above, You must notify TITAN within thirty (30) days of the breach of warranty, and TITAN agrees to use commercially reasonable efforts to cure the non-conforming portions of the TITAN Product before You pursue any other remedies. TITAN is not responsible for any non-compliance with this warranty resulting from or caused by any (i) Malicious Code present in the Your Data made available to TITAN by You, or (ii) Modifications made by anyone other than TITAN, including by way of example, Modifications made by You or any Authorized Partners. Your sole and exclusive remedy for a breach of any of warranties contained in this Section 7.1 shall be to terminate the Agreement pursuant to Section 5.2 and, notwithstanding anything to the contrary in Section 4.1, have TITAN refund to You the pro rata unused portion of any pre-paid Subscription fees.

2. Your Warranties. You warrant that (a) it has the legal power to, and hereby does, enter into this Agreement, (b) it has all rights in and to the Your Data necessary to permit TITAN to exercise its rights to access and use Your Data as permitted by this Agreement, and (c) Your Data or the media on which the Your Data resides does not contain any Malicious Code.
3. Disclaimer of Warranties. EXCEPT AS EXPRESSLY STATED IN SECTION 7.1 AND AS PERMITTED BY APPLICABLE LAW, THE TITAN PRODUCT IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. TITAN'S PRODUCT OR SERVICE MAY BE SUBJECT TO LIMITATIONS OR ISSUES INHERENT IN THE USE OF THE INTERNET AND TITAN IS NOT RESPONSIBLE FOR ANY PROBLEMS OR OTHER DAMAGE RESULTING FROM SUCH LIMITATIONS OR ISSUES.

8. **Limitation of Liability.**

1. Limitation on All Damages. EXCEPT FOR A BREACH OF SECTIONS 1.2, 1.3, 1.4, 1.5 or 1.6, IN NO EVENT SHALL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT WHETHER IN CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED IN THE AGGREGATE, THE LESSOR OF THE TOTAL AMOUNT PAYABLE TO TITAN UNDER THIS THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE ACT OR GIVING RISE TO THE LIABILITY OR TWENTY FIVE THOUSAND DOLLARS (\$25,000). THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 4.
2. Disclaimer of Consequential Damages. EXCEPT FOR A BREACH OF SECTIONS 1.2, 1.3, 1.4, 1.5 or 1.6, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOST PROFITS OR REVENUE OR FOR ANY INDIRECT, SPECIAL, COVER, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING UNDER THIS AGREEMENT AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.
3. Scope of Limitations on Liability. THE LIMITATIONS SET FORTH IN THIS SECTION 9 SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH CLAIMS ARE BROUGHT (CONTRACT, TORT, INCLUDING NEGLIGENCE OR OTHERWISE).

9. **General.**

1. Publicity. TITAN may include Your name on a customer list.
2. Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without the consent of the other party, to its Affiliates or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. Any attempted assignment in breach of this Section 11.3 shall be void.
3. Relationship of the Parties. TITAN and You are independent contractors, and nothing in this Agreement or any attachment hereto will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties.
4. No Third-Party Beneficiaries. There are no third party beneficiaries to this Agreement.

5. Choice of Law and Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of California and the federal U.S. laws applicable therein, excluding its conflicts of law provisions.
6. Attorney's Fees. In any action related to this Agreement, if any party is successful in obtaining some or all of the relief it is seeking or in defending against the action, the other party shall pay, on demand, the prevailing party's reasonable attorneys' fees and reasonable costs.
7. Manner of Giving Notice. Notices regarding this Agreement shall be in writing and addressed to You at the address You provide, or, in the case of TITAN, when addressed to TITAN School Solutions Inc., Attn. General Counsel, 3017 Douglas Blvd, STE 300, Roseville, CA 95661 USA. Notices regarding the TITAN Product in general may be given by electronic mail to Your e-mail address on record with TITAN.
8. Force Majeure. Neither party shall be liable to the other for any delay or failure to perform hereunder (excluding payment obligations) due to circumstances beyond such party's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (excluding those involving such party's employees), service disruptions involving hardware, software or power systems not within such party's reasonable control, and denial of service attacks.
9. Entire Agreement. This Agreement and any Order Forms or exhibits attached hereto or referenced herein represent the entire agreement of the parties and supersede all prior discussions, emails, and/or agreements including requests for proposals ("RFP"), between the parties and is intended to be the final expression of their Agreement. To the extent there is a conflict between this Agreement and any additional or inconsistent terms, including any pre-printed terms on Your purchase order, the terms of this Agreement shall prevail, unless expressly stated otherwise. Notwithstanding any language to the contrary therein, and except as set forth in Section 4.1, no terms stated in a purchase order or in any other order document (other than an Order Form expressly incorporated herein) shall be incorporated into this Agreement, and all such terms shall be void. No failure or delay in exercising any right hereunder shall constitute a waiver of such right. The Agreement and all exhibits hereto, including any related Order Forms may not be modified or altered except by written instrument, and no amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed (either manually or electronically) by an authorized representative of You and TITAN. All rights not expressly granted to You are reserved by TITAN and its licensors.
10. Equitable Relief. Except as otherwise provided, remedies specified herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.
11. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in effect.

10. Definitions.

1. "API" means application programming interfaces provided by TITAN as part of the TITAN Product, which set forth rules and specifications that Third Party Modules may utilize to access Your Data in accordance with this Agreement.
2. "Authorized Partner" means a TITAN Product partner that is in good standing with TITAN under a fully-executed TITAN agreement and is associated with an Order Form under this Agreement.

3. **"Your Data"** means any data, information or material submitted by You, or stored by You in the TITAN Product.
4. **"Your Software"** means online, Web-based applications and offline software products that are developed by or for You, the use of which software is governed by the applicable terms and conditions specified by such software.
5. **"Confidential Information"** means information that one party (the "Disclosing Party") provides to the other party ("Receiving Party") during the term of this Agreement that is identified in writing at the time of disclosure as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.
6. **"Intellectual Property Rights"** means any patents and applications thereto, copyrights, trademarks, service marks, trade names, domain name rights, trade secret rights, and all other intellectual property and proprietary rights.
7. **"Malicious Code"** means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents, or programs.
8. **"Modifications"** means any work based on or incorporating all or any portion of the TITAN Product, including, without limitation, modifications, enhancements and customizations to the TITAN Product developed by TITAN, You, a third party on either such party's behalf or any combination of such parties.
9. **"Order Form"** means a document for purchases of Subscriptions hereunder, including purchase orders, order notifications and order confirmation documents (either in writing or via the Web), that are agreed to by TITAN, or entered into between TITAN and You from time to time. Order Forms are deemed incorporated herein by reference.
10. **"Original Code"** means TITAN Product source code.
11. **"Personal Data"** means any information relating to an identified or identifiable natural person ("data subject"); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.
12. **"Software Releases"** has the meaning ascribed to it in Exhibit A of this Agreement.
13. **"Subscription"** means Your right to use the TITAN Product for the Subscription Term, per the terms of the Agreement and the related Order Form(s).
14. **"Subscription Term"** means the period of time which You may access the applicable TITAN Product as set forth in an Order Form.
15. **"TITAN Product"** means any software that TITAN supplies, licenses or sells to You from time to time during the Term, including any software that is downloadable from a third party app store and Modifications.
16. **"Support Services"** shall have the meaning defined in Section 1.3.
17. **"Taxes"** means any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature.

18. **"Third-Party Modules"** means software developed by a third party that You may use to add functionality to the TITAN Product, the use of which software is governed by the applicable terms and conditions specified by such third party.
19. **"Third-Party Software"** means online, Web-based applications and offline software products that are developed by third parties, and may interoperate with the TITAN Product, the use of which software is governed by the applicable terms and conditions specified by such third party.
20. **"You or you"** means the hospital, college, university, school district, corporation, or other entity or individual who has been invoiced.

Exhibit A

Terms of Use

1. Service. Subject to the Terms of Use and the terms of the Agreement, You shall have the right to access, use and modify the TITAN Product during the Subscription Term solely for Your own internal business purposes. The TITAN Product may be accessed through a web browser and/or mobile web client.
2. Software Releases. During the Subscription Term, if You have paid the applicable fees and is in compliance with the terms and conditions of the Agreement, TITAN shall provide automatic updates to the TITAN Product with Software Releases. “**Software Releases**” may be comprised of Maintenance Releases and/or Feature Releases (as defined below).
 1. “**Maintenance Releases**” means an update to the TITAN Product which includes fixes to known defects and does not intentionally introduce any new or modified application behavior.
 2. “**Feature Releases**” means a software update which includes both fixes to known defects and introduces new or modified application behavior or changes the available features or functionality of the TITAN Product.
3. Third Party Analytics Tools. You acknowledges that TITAN may use third party web analytics tools (such as Google Analytics) that serve cookies or similar tracking technologies through the TITAN products and services, on end user devices, to collect Usage Data for the purposes described in Section 3.3.5. You will take such measures as are necessary to inform its end users about TITAN’s use of such web analytics tools in connection with the TITAN Products and related services. You hereby provides its consent to TITAN to use cookies or tracking technologies served by those web analytics tools, in a manner that is consistent with industry practice.
4. Development. You agrees that it will not, directly or indirectly, conduct any activity that will degrade performance beyond an acceptable level, including but not limited to: (a) conducting automated functionality tests or load tests on the TITAN Product, (b) creating Internet links to the TITAN Product, and/or (c) deploying custom modifications that adversely impact the TITAN infrastructure due to incompatible code, inefficient code or architecture practices. If You do any of the foregoing, TITAN shall have the right to terminate or suspend Your account and access to the Service without any refund or credit until You correct such violation to TITAN’s reasonable satisfaction.
5. Handling of Your Data Post Termination. Upon written request by You made within ninety (90) days of the effective date of expiration or termination of the Agreement (the “**Post-Term Period**”), TITAN agrees to make available to You, a copy of Your production environment. Further, during the Post-Term Period and upon Your request, TITAN shall grant the You limited access to the Service for the sole purpose of permitting You to retrieve Your Data, provided that You have paid in full all good faith undisputed amounts owed to TITAN. Upon expiration of the Post-Term Period, TITAN will have no further obligation to maintain for or provide to You any of Your Data and may thereafter, unless legally prohibited, delete all of Your Data in its systems or otherwise in its possession or under its control.

Exhibit B

Service Level Specifications

TITAN's required response times and resolution will vary based on the severity of the problem faced by You and the time of day in which Your problem occurs. TITAN's hours of operation are Monday through Friday 7:00AM to 6:00PM Pacific Standard Time.

Priority Code	Your Impact	Initial Contact with Support Contact	Resolution Time for Errors
Level 1	Business Halted/ Critical	These are worked immediately as they come in with a maximum of two hour initial response time	Provide a temporary work around by the start of the client's next business day or 72 hours after initial report time, whichever is sooner. Diligently pursue Error Correction and provide within no later than 90 days after initial report time.
Level 2	Business Impacted/High	Within 4 hours initial response time	Provide a temporary work around within 10 business days after the initial report time. Make commercially reasonable efforts to pursue Error Correction and provide no later than next release or 120 days after reporting of the Error, whichever is longer.
Level 3	Non-Critical Request/Low	Within 1 business day initial response time	Provide Error Correction on a mutually agreed upon date. Provided that the date will be no earlier than the next release or 180 days after reporting of the Error, whichever is longer.

Explanation of Priority Codes:

Level 1: Business Halted: a problem with the Software that prevents your ability to complete critical business functions. In these cases, troubleshooting is done over the phone with a Support Contact. If an on-site visit is deemed necessary, the client will be responsible for all travel, lodging and related expenses.

Examples:

Software system is down, Hardware is not responding, or Error message(s) which reflect an error that will halt the client's or its customer's business

Level 2: Business Impacted: non-critical issues or questions that affect a person or group at your Site. A work-around has been identified so the person or group can use the system to perform their job. Troubleshooting is done over the phone.

Examples:

Reports get error message

Level 3: Non-Critical/Request: issues or questions that need a response, but are not time critical. Support Contacts requesting information/action that is not urgent.

