



Order Form

Customer Information

Name: Perris Union High School District

Effective Date

Start of License Term: May 1, 2019

Billing Address

Street: 155 East Fourth Street

City: Perris

State: California

Zip: 92570

Terms

License Term: 36 months

Payment method: Check

Due date: 30 days

Auto Renew: No

Software and Services Ordered	Notes	Record Count Not Exceeding	Fees
Software: Platform / Essentials	See Note 2	10,796	Annual License Fee: \$40,485
Software: Early Warning and Intervention Tracking System	See Note 2	10,796	Annual License Fee: \$9,716
Maintenance Services			Maintenance Services Fees: Included
Professional Services	See Note 3		Professional Services Fees: \$90,072
Total Fees Due Now			See Schedule below

Payment Schedule:

Includes	Due Date	Amount
2 months of annual subscription, plus 34% of services	May 1, 2019	\$38,451
10 months of annual subscription	July 1, 2019	\$41,835
100% of subscription fees, plus 33% of services	May 1, 2020	\$80,195
100% of subscription fees, plus 33% of services	May 1, 2021	\$80,195
3 Year Total		\$240,676

Notes:

1. This Order Form is subject to the terms of the Master Software License Subscription and Services Agreement by and between Hoonuit I, LLC, and Perris Union High School District dated April 2, 2019.
2. Users shall be confined to employees or staff members of Perris Union High School District.
3. Hoonuit will perform the Professional Services described in Statement of Work Exhibit A-1.
4. Professional Services assumptions:
 - a. Includes five years of assessment data provided by district in original vendor format
 - b. SPED data is limited to yes/no and primary category from Infinite Campus
 - c. Hoonuit will load the assessment data for the first year; for the following years, client will load the data
 - d. Hoonuit will load the first two surveys; district is responsible for loading additional surveys
 - e. District will host on their servers, which match Hoonuit hardware requirements
5. Travel costs are billed separately, if travel is required
6. Service hour rate is \$139
7. Proposed pricing is valid until April 30, 2019

Authorized Signer

Signature: _____

Print Name: _____

Title: _____

Date: _____

Master Software License Subscription and Services Agreement

This Master Software License Subscription and Services Agreement (“**Agreement**”) is entered into as of April 2, 2019 (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 Perris Union High School District, with its principal place of business at 155 East Fourth Street, Perris, CA 92570 (“**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 21 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.

“**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, Maintenance Services, and/or Hosting 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 and Professional 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 12 and 15.
 - 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 Exhibit A (Maintenance Services Description);
 - 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. **Support.** Telephone support at (800) 610-1313 option 2 will be provided by Hoonuit for the Software during Hoonuit's standard support hours in effect at the time of the call (as of the Effective Date, 9:00 a.m. to 5:00 p.m. CST); email support is provided during standard support hours at support@Hoonuit.com; and online support is provided through Hoonuit's online tool that is made available to five (5) approved Customer Authorized Users;
 - d. **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;
 - e. **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
 - f. **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 by a party other than Hoonuit.

- g. **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 23 (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. **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.
7. **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.
8. **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.
9. **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. **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.
 - f. **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.
10. **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.

11. 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 18, provided that Customer shall notify Hoonuit in writing in reasonable detail.

12. 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.

13. DISCLAIMER/EXCLUSION OF WARRANTIES. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN SECTION 11 (HOONUIT WARRANTIES) AND SECTION 12 (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.

14. 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.

15. 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 15, 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.

16. **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, 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, 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.
17. **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.
18. **TERM AND TERMINATION.**
- a. **Term of the Agreement.** This Agreement begins on the Effective Date and, unless terminated pursuant to Sections 18.c. or 18.d, continues until all Orders and Statements of Work hereunder have expired or been terminated.
 - b. **Term for Professional Services.** The period for performance of Professional Services will be set forth in the applicable Statement of Work.
 - c. **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.
 - d. **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.
 - e. **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 18.c, 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 18.d, 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.

- f. **Survival.** The following provisions shall survive expiration or termination of this Agreement: Definitions, 1.b., 1.d., 4.h., 9 (with respect to any payment obligations arising prior to expiration or termination), 13, 15, 16, 17, 18.f., 20-36.

19. **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%).

20. 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 20. 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.

21. 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 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 20.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.

22. **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.
23. **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.
24. **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.
25. **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.
26. **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.
27. **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.
28. **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.
29. **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.
30. **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.

31. **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.
32. **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.
33. **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.
34. **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.
35. **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.
36. **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.
37. **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.
38. **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

PERRIS UNION HIGH SCHOOL DISTRICT

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.	1 business day
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

Product Support Agreement

This Product Support Schedule ("Schedule") is attached to and made part of the Master Software License Agreement (the "Agreement") between Hoonuit and Perris Union High School District ("Customer"), Effective Date: April 2, 2019.

Terms defined in the Agreement have the same meanings herein unless otherwise provided. The terms and conditions of this Schedule shall control over any inconsistent or conflicting terms or conditions contained in the Agreement.

List of Product Support Services

- Daily Monitoring of the ETL Processes, Dashboard/Report Applications & Systems Health
- Identification of issue root cause and basic troubleshooting
- Data Warehouse Performance Tuning (e.g. address performance issues raised, routine review of execution logs and proactively address noted issues)
- Applying maintenance items (e.g., upgrades and fixes) as may be released during the service period that relate to purchased software, not including Customer Modifications

Every Issue reported by customers will be assigned a priority. The following priorities are available and criteria used for assignment:

- Critical – System, full product, or database level failures
- High – Complete failure of agents, utility programs, or other major functionality
- Medium – Partial failures of agents, utility programs, user interfaces, or other functionality
- Low – Non-functionality related issues

Hoonuit also uses default resolution goals. Resolution is defined as the targeted time it takes Hoonuit to deliver a solution for a specific issue. The Hoonuit default resolution goals are:

- Critical – 1 business day
- High – 10 business days
- Medium – 25 business days
- Low – 65 business days

Hoonuit agrees to make its best effort to provide a solution for an issue within the appropriate timeframe as indicated above.

Hoonuit has a responsibility to provide an initial response for new support requests from customers in a timely manner as well as a responsibility to keep customers informed regarding progress toward achieving a solution to their issues.

HOONUIT I, LLC

PERRIS UNION HIGH SCHOOL DISTRICT

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A-1

Professional Services Schedule (Statement of Work)

This Statement of Work ("SOW") is attached to and made part of the Master Professional Services Agreement (the "Agreement") between Hoonuit and Perris Union High School District ("Customer"), Effective Date: April 2, 2019.

Terms defined in the Agreement have the same meanings herein unless otherwise provided. The terms and conditions of this Schedule shall control over any inconsistent or conflicting terms or conditions contained in the Agreement.

RECITALS

- A. Client desires to engage Hoonuit in work that includes implementing the Hoonuit Platform, Essentials Product Suite, and Early Warning and Intervention Tracking System.
- B. Hoonuit wishes to provide described services for Client pursuant to this Agreement.

2. HOONUIT RESPONSIBILITIES

2.1 Described below are the Hoonuit deliverables to provide Client with the outcome of implementing Hoonuit Platform, Essentials Product Suite, and Early Warning and Intervention Tracking System, deployed onsite at Perris Union High School District.

1. Establish and manage project plan for implementation of solution
2. Deploy the Standard Hoonuit solution (Essentials and EWIS) to a production environment.
3. Nightly processing of data directly from Client's defined systems:
 - i. Infinite Campus
4. Deploy the universal test loader and standard assessment formats:
 - i. National Assessments
 1. SAT
 2. PSAT
 3. ACT
 4. AP
 5. NWEA-MAP
 - ii. CA State Assessments
 1. STAR
 2. CAHSEE
 - iii. Surveys
 1. Up to 2 google sheets with survey data (up to 12 hours per survey)
 - iv. Intervention Data
 1. Attention to Attendance (just Y/N, and dates of interventions)
5. Deploy the dashboard in a production environment.
6. Project scope includes 20 hours to deliver LCAP aligned dashboards.
7. Deploy standard dashboard content
8. Online portal for access to product documentation
9. Technical training for Client developers and administrators (train the trainer for end-user training)
10. Provide access to JIRA ticketing and support system for up to 5 users
11. Total hours for the project are expected to be and not exceed 648 hours for implementation and configuration of the agreed upon solution's scope. Configuration will be delivered within this scope of hours; configurations that extend beyond these hours may require a change order and possible purchase of

service hours. This is neither a not-to-exceed nor a fixed-fee project.

2.2 Project Communication. Hoonuit will prepare a standard weekly status report for Client key stakeholders. Status calls will be scheduled based on Client preference and schedule. The following table lists details of the communications Hoonuit will be responsible for during the project.

Document	Purpose	Recipients	Author	Update Frequency
Status Report	Update stakeholders on progress of the project.	Project Team and Sponsors	Project Leader/Coordinator	Weekly
Risk Management Document	Update project stakeholders on project obstacles and ways to mitigate or eliminate risks.	Project Team and Sponsors	Project Leader/Coordinator	Monthly
Issue Management	Create a record of project issues for resolution.	Project Team and Sponsors	Project Leader/Coordinator	Updated as changes to issues occur
Change Control Document	Describe project scope changes, estimate their impact, cost, and disposition.	Project Sponsors	Project Leader/Coordinator	As Required
Project Team Meetings	Coordinate & align scheduled tasks for following week. Typically, in conjunction with Project Status Report Review	Project Team and Sponsors	Project Team Lead	Weekly
UI, Dashboard, Report Demonstrations	Get approval on design and content.	Project Sponsors	Team Lead	As Needed
Notice of Completion of Milestone & Deliverables	Communicate end of a project milestone and related deliverables.	Project Sponsors	Project Lead/Coordinator	End of Project Milestones

2.2.1 Communication is provided through JIRA, an issue tracking system, and Confluence, a secure wiki. During the term of this Agreement, Client will be provided access to JIRA and Confluence for a total of five (5) users.

2.2.2 Unresolved questions and project dependencies may arise during the project. Hoonuit requests 24-hours, Monday through Friday, turn around for most issues/questions to Client. In order to maintain project timelines, it is imperative that Client resolves these open questions in a complete and timely manner. If issues are unresolved for an extended period, there may be implications on either the timeline or total cost of the project, which may then require a Change Order to be issued by Hoonuit.

2.2.3 Hoonuit will respond to Client inquiries submitted through approved channels within 24-hours, Monday through Friday.

2.3 Change Orders. Project issues with delivery and/or resources will be reported to Hoonuit personnel identified in this Agreement. Changes to this Agreement may result in a Change Order, detailing all modifications to the scope, price, Delivery Schedule, or other terms (the "Change Order"). A Change Order shall alter only that portion of the Agreement to which it expressly relates. A Change Order shall contain the following information:

2.3.1 The date of issuance of the Change Order;

2.3.2 A detailed description of the Services to be performed under the Change Order;

2.3.3 The particular specification or matter set forth in the applicable Services Agreement that that will be altered and the precise scope of that alteration;

2.3.4 The cost of the Services to be performed pursuant to the Change Order; and

2.3.5 The cumulative cost of all Change Orders previously issued.

2.4 Post-deployment. Upon successful deployment of the Hoonuit modules listed in 4.1 of this agreement, approval of deliverables, and closure of this Agreement, Hoonuit will only provide ongoing support through maintenance (see Schedule 2 of Software License Agreement). Service block hours and support services can be purchased by Client for support not covered in the product support agreement.

3. CLIENT RESPONSIBILITIES

3.1 Described below are tasks Client is responsible for in order to support the implementation of the modules listed in 4.1 of this agreement. The deadline for completing the tasks are provided; not adhering to the provided schedule will result in an

extended completion date and possible further costs to be negotiated in writing through a Change Order.

Task	Description
Client Resources	Provide availability of subject matter experts, stakeholders, and decision makers for required meetings, signatures, and reviews.
Advisement of policies and procedures	It is Client's responsibility to advise Hoonuit of any policies or procedures that Hoonuit must adhere to during the period of this engagement. Hoonuit will follow internal policies and procedures for conduct in absence of other direction.
Hardware	It is the Client's responsibility to have required hardware in place, up and running, and accessible to Hoonuit.
Provide Hoonuit access to source databases and permissions	Hoonuit staff will need read (select) permission to source databases and perhaps execute permissions to source functions/procedures where required. To improve efficiency, Hoonuit desires full administrative access to the project's target database and application servers for the duration of this project.
Documentation of source data and systems	Documentation of Client source data & systems and relevant procedures & practices will be provided to the project team as required. Hoonuit will execute a mutual non-disclosure agreement with Client to cover access to this information as well as access to Client's source databases.
Provide remote access	Client will provide mutually satisfactory remote access to their systems (primarily source databases and the project servers). Typically, Hoonuit uses unrestricted VPN access using either a PPTP or Cisco client. Proper functioning (installation and definition) of secondary VPN client software will be the ultimate responsibility of Client.
Data validation	Hoonuit will perform unit testing for all ETL procedures. However, Client personnel will ultimately be responsible for performing data validation under Hoonuit guidance.
Processes to support staging portions of the ETL	Dependent upon source system peculiarities, Client may be required to develop processes to support the staging portions of the ETL. The database platforms to be referenced will be limited to any JDBC compliant database. For formats that are not explicitly externally described, Client will provide acceptable definitions. Client is responsible for obtaining (and the proper functioning) of the required database connectivity middleware for any source databases.
Ownership and maintenance of extension tables	As a part of the base District Essentials solution, Hoonuit provides a series of extension tables (XTBL) that are intended to supplement the required source data for District Essentials (e.g., Facilities attributes or historical school calendars, etc.). Hoonuit will provide Client with documentation on these structures and guidance on populating them. Client accepts ultimate responsibility for the data in these tables and ongoing maintenance.
Hardware and software requirements	Client accepts that the minimum hardware and software recommendations provided during the infrastructure assessment phase of this project need to be closely followed. Inappropriate hardware or software adversely affects both development efforts as well as ETL and report performance, and may result in a Change Order.
Onsite access	Hoonuit does not expect this project will take priority over Client's main operational systems, but when onsite, Client will provide Hoonuit with priority access to the necessary resources (e.g., DBAs, Network Engineers, SMEs, etc.) as feasible. Hoonuit and Client will notify each other of team member holidays/vacations and other scheduled conflicts minimally two weeks in advance. Issues with resource access will be noted and Hoonuit and Client project leads will mutually determine how to remedy the situation and if a Change Order is required.
System stability	If Client experiences repeated or extensive outages of key networks or systems, project timelines may need to be extended. Hoonuit and Client project coordinator will mutually determine how to remedy the situation and if a Change Order is required.
Ownership of performance tuning and other related tasks	While Hoonuit will provide basic performance tuning of the data model in the scope of this Agreement, all activities related to the solution are expected to be run independently by Client on an ongoing basis. Hoonuit will provide Client with appropriate knowledge transfer on performance tuning and other tasks so that Client can assume these responsibilities.
Comprehensive security definition for updates	Hoonuit provides a complete security framework for the solution, including heterogenous repository authentication, object-level permissions by role, and row-level filtering. During this project, Hoonuit will implement authentication security with a single repository and implement exemplary permissions security definitions with Client staff for testing and knowledge transfer, but Client will be ultimately responsible for comprehensive security definition for all Hoonuit module updates.
Loading assessment data	Provide assessment files in vendor supplied unaltered format Upon completion of this project, Client is responsible for loading new assessments. Assistance from Hoonuit can be provided through a service block agreement or premium support agreement.

Task	Description
Support Users	Provide list of up to 5 users that will have access to create tickets in Hoonuit's ticketing system.

3.2 Data assumptions. This agreement assumes that there is a single source database for each of the domains included in the solution with the exception of the items listed in the subsections below. Hoonuit assumes that each of the source systems to be accessed by the ETL processes will consist of a single database instance and will be consolidated within Client's data center. The exception to this assumption is for historical instances of the database.

3.2.1 The Hoonuit project manager will work with the Client to determine the extent of historical data to be loaded and the possible impact to performance and cost of loading if in excess of ten (10) years. For master data, such as students or enrollments, this is primarily a question of performance. For annualized data (e.g., attendance or student schedules are typically truncated at each year end and therefore "annualized") this will require that prior year (historical) instances of the database be restored and potentially conformed if the data model or codifications have changed. Five years of annualized history and thirteen (13) years of master history is assumed. Hoonuit will provide direction related to required restoration of historical databases and necessary conformance, but this is ultimately a Client responsibility.

3.2.2 Historical assessment data can be loaded by the connector if the original historical vendor files are provided and the connector has pre-existing support for the historical formats/APIs and assessment definitions. Related historical information such as students, enrollments school calendars and schools must also be loaded in the data warehouse.

3.2.3 Loading of historical data from a system not supported by the connector will not be supported by Hoonuit. Data quality issues related to this are Client's responsibility.

3.2.4 Test Scores will be provided to Hoonuit in the assessment vendor supplied formats unless otherwise agreed upon. Non-standard formats or altered vendor formats may incur extra charges.

3.2.5 Program Membership. These multi-source domains will be limited to five (5) standard sources unless otherwise agreed upon. Examples of standard sources include interventions from the SIS, courses from the SIS, a single custom file, or the Hoonuit generic format.

3.3 Post-deployment. Client will be responsible for data loaded into the Hoonuit solution after the solution has been deployed, deliverables have been approved, and this Agreement is closed. Hoonuit support can be provided through purchase of service block hours or additional services.

3.3.1 Assessment connectors are designed to work with formats/APIs provided by connector's stated vendor and product.

3.3.2 Modifications or corrections to the data in vendor files may work with, but is not supported by, the connector.

3.3.3 Customization and assessment definitions and/or benchmarks (cutscores) may break standard dashboard or reporting content. Any necessary adjustments to the reports or dashboards are Client's responsibility.

3.3.4 Some connectors will use fuzzy matching to help identify students or schools. Client is responsible for review, correction, and approval of the data before it is released to the data warehouse.

4. COST OF PROJECT & BILLING

4.1 Described below are the costs of the project. \$139/hour rate for services beyond initial implementation and scoped out requirements, which will result in a change order document or additional agreement.

One time services fees: \$90,072 or 648 hours

4.2 Travel expenses. Hoonuit will work with the Client to schedule the trips more than two weeks in advance and to stay at hotels with Client-negotiated rates (if available and suitable). Travel expenses for implementation will be billed at cost as incurred.

4.3 Billing. Hoonuit will submit billing to Client upon receipt of a valid Purchase Order. Hoonuit payment terms to Client is Net 30.

4.4 Invoices. Invoicing for authorized services will be sent to:

NAME:
TITLE:
ADDRESS:

PHONE:

EMAIL:

4.5 Client represents it has sufficient funds currently available and authorized for expenditure to finance the costs of this Agreement within Client's biennial appropriation or limitation.

5. DETAILED PROJECT PLAN

5.1 **High Level project plan.** Hoonuit will use its established project management methodology. A detailed project plan will be provided upon initial meetings with Hoonuit's project manager and stakeholders.

6. HOONUIT PERSONNEL

6.1 Identified below are the Hoonuit personnel primarily responsible for completing the tasks described in this Agreement.

Title	Name & Email
Project Manager	
Senior Solution Architect	
Solution Developer	
Solution Developer	
Data Analyst	

6.2 Subject to change as required for completion of finalized Client objectives. Any changes in personnel will be communicated to Client within ten (10) days of the change.

7. CLIENT PERSONNEL

7.1 Identified below are the Client personnel primarily responsible for completing the tasks described in this Agreement.

Title	Name & Email

7.2 Any changes to Client personnel must be communicated to Hoonuit in writing within ten (10) days of the change. Changes to key Client personnel may result in extending the completion deadline and incur further costs. Changes to the deadline and costs will be documented in writing through a Change Order drafted by Hoonuit.

HOONUIT I, LLC

PERRIS UNION HIGH SCHOOL DISTRICT

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____