

SOFTWARE LICENSE, MAINTENANCE AND SUPPORT AGREEMENT

This SOFTWARE LICENSE, MAINTENANCE AND SUPPORT AGREEMENT is entered into, by and between Software Answers, Inc., an Ohio corporation located at 6770 West Snowville Rd., Suite 200, Brecksville, Ohio 44141 (hereinafter the "Licensor"), and Plum Borough School District located at 900 Elicker Rd Plum, Pennsylvania 15239 (hereinafter the "Licensee"), for support, maintenance and ongoing license for the Software Product set forth effective this 12th day of July, 2013 upon the terms and conditions hereinafter set forth, for the consideration stated herein.

Description	1 year license renewal for ProgressBook GradeBook & Parent Access software with maintenance and support
Software Product	ProgressBook GradeBook & ParentAccess. Hereinafter referred to as the "Software"
Term of License	Continue the license of the product for 4,110 active students attending Plum Borough School District for 1 year
Term of Agreement	1 year, starting 7/12/2013 and ending 7/11/2014
Cost	\$8,847.90 Dollars US per year
Payment Terms	Net 30 days from receipt of invoice Fee will be invoiced during the first week of July. The Licensor reserves the right to charge Licensee a late charge of 2% per month if invoice is not paid within 30 days of the invoice date

Other Agreements:

No other agreements other than what is specified in this document.

Maintenance/Upgrades included with this agreement:

All maintenance releases and upgrades to the Software are included with this agreement. As long as Licensee has a valid maintenance agreement for the Software and is current with payments for the agreement, Licensee will be entitled to receive all maintenance releases and upgrades to the Software and the license is automatically transferred to the latest version of the Software.

Support included with this agreement:

This Agreement entitles Licensee to second level online, email and telephone support as described in the "Support" section of this contract. Second level support is defined as a ProgressBook support team will exist within the Licensee's district to support the Software. When the Licensee's support team needs assistance with supporting the Software, they will contact the ProgressBook support team at the Licensor. Licensee will provide Licensor a list of designated support contacts that will be contacting the ProgressBook support team at the Licensor. The list will be limited to two names plus one additional name for each twenty thousand active student licenses under the support agreement.

TERMS AND CONDITIONS

1. **LICENSE.** Licensor licenses to Licensee and Licensee hereby hires and takes from Licensor the personal property consisting of certain proprietary computer software known as "ProgressBook GradeBook and ParentAccess" which shall include all replacement parts, updates and maintenance (hereinafter referred to as the "Software"). The Software is and shall at all times be and remain the sole and exclusive property of the Licensor and Licensee shall have no right, title or interest therein or thereto except as to the use thereof subject to the terms and conditions of this License.
2. **FEES.** Licensee agrees to pay the fees contained in the **Cost, Rate for Services not Included** and **Other Agreements** sections. Without deductions, all payments are due within thirty (30) days of invoicing.
3. **LIMITED WARRANTY.** Licensor makes no warranties (express, implied or statutory) with respect to the Software and the accompanying written materials including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose. In no event will Licensor be liable to Licensee for any direct or indirect damages including loss of profits, lost savings, loss of data, or other special incidental or consequential damages arising out of Licensee's use of or inability to use the Software.

4. SUPPORT.

- a. **Definitions:** The following terms shall have the meanings and definitions as specified below.
- i. **Acknowledgement of Issue** – Refers to confirmation email that an issue has been received and case has been opened.
 - ii. **Assigned** – Refers to a specific Licensor staff member being assigned the responsibility for researching and resolving an issue and is the time at which the issue is actively being worked on.
 - iii. **Defect** – Refers to the failure of the Software to operate in conformance with the Documentation and/or Specifications or to operate with a response time that is not in accordance with the specifications and/or reasonable commercial standards.
 - iv. **Enhancement** – Refers to a change in the functionality of the Software to provide for new or different capabilities and/or behavior from the documented specifications.
 - v. **Escalation** – Refers to a process of involving additional, more experienced Licensor staff members such as, but not limited to, additional Support, Quality Assurance or Development staff members in the research of an issue.
 - vi. **Issue** – Refers to Licensee’s submission of a potential defect in the Software, the need for assistance in understanding how to configure functionality within the Software, or a data-related problem in the Software.
 - vii. **Resolution** – Refers to the Licensor providing a fix or workaround to an issue that has been submitted in a case. If the issue is identified as a defect in the Software, it will be reported to development for a fix and the case will be closed.
 - viii. **Response Time** – Refers to the time it takes from when an input is completed via keyboard or mouse and when the Software completes its response to the input.
 - ix. **Second Level Support** – Refers to the Licensor providing support to a Licensee dedicated ProgressBook support team. This team can be an individual or a group containing two names plus one additional name for each twenty thousand active student licenses under the support agreement.
- b. **Hours of Operation:** Support Services are provided Monday through Friday from 7:00 am to 5:00 pm EST, excluding major holidays. Major holidays include New Year’s Eve, New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve and Christmas Day. If the holiday falls on a weekend, an alternate Monday or Friday will be selected for the observance of the holiday. Licensor will provide advance notice to Licensee of the day of observance. Other exceptions to this schedule may include natural disasters or other uncontrollable events such as, but not limited to, loss of electrical power, heat or water.

- c. **After business hours and weekend support** will be provided for circumstances where an entire school district is unable to access the Software. These issues must be submitted to the Licensor by leaving a message on the Licensor dedicated support phone line and marking the message as urgent. An on-call team member will respond to the issue within 1 hour and if not resolved within 4 hours, must be escalated to involve additional qualified staff.
- d. **Included Services:** The following second level support services are included in this Support Agreement.
- i. Correction of defects in the Software installed and utilized in approved hardware/software configurations, resolution of data issues within the Licensor's Software that result from a defect in the product, and assistance in understanding proper configuration of functions of the software. These services are provided in accordance with the following:
 - ii. Licensee agrees to submit issues to the Licensor with appropriate details in one of the following methods:
 1. Online Submission - The preferred method of reporting issues is through an electronic submission form provided via the Licensor's web site. This form guides the submission to ensure sufficient details regarding the issue are provided for efficient research and resolution.
 2. Email Submission – Email of the full details requested on the online submission form to the designated support address may also be used to submit an issue.
 3. Telephone Submission – A call to the designated support number with full details requested on the online submission form may also be used to submit an issue.
 - iii. Licensee will receive acknowledgement from the Licensor within 30 minutes of receipt of issue submission using the methods outlined in 4dii. Licensor agrees to prioritize, research and resolve issues submitted by Licensee as described in the following table:

SOFTWARE ANSWERS

Priority	Description	Time to Assign	Escalation (if not Resolved)
Critical	<ul style="list-style-type: none"> • Issues affecting multiple schools and/or districts disrupting users' ability to take attendance, enter or print report cards 	2 business hours	4 business hours
High	<ul style="list-style-type: none"> • Issues affecting multiple users (>3) and/or one school's ability to take attendance, enter or print report cards • Data integration errors with the Software • Issues involving one or more schools' ability to access sections of Parent Access • Problems with saving data 	1 business day	2 business days
Normal	<ul style="list-style-type: none"> • Issues affecting one or more users' ability to take attendance enter or print report cards, or other issues that do not meet the requirements of Critical, High, and Low designation 	2 business days	4 business days
Low	<ul style="list-style-type: none"> • Issues affecting a single user's ability to work with lesson plans, Parent Access, reports, assignments, forms or tasks • General information requests 	3 business days	5 business days

- iv. Licensee will receive confirmation that their issue has been assigned and is actively being researched. Licensor will communicate to the Licensee specific details of what is being done or what needs to be done to correct the issue. In the event the issue is not resolved within the allotted timeframe and has to be escalated, additional communication will be sent to Licensee to advise the status of the issue. The time the Licensor is waiting for necessary information from Licensee does not count towards the time to assign or escalate.
- v. In the event that Licensor provides a workaround rather than fix a defect in the Software, Licensor commits to continue to work on said defect until a fix can be provided to Licensee. Correction of a defect may require the Licensee to install a later version of the Software.
- vi. Licensor will provide support services on supported versions of the Software. Licensor will notify Licensee in advance of any plans to retire support of a configuration or version of the Software.
- vii. Software product documentation will be maintained to explain existing functions, new enhancements, and defect corrections as appropriate.
- viii. Support for a test environment falls in low priority status unless the testing of a release in the test environment would hold up a release in a production environment.

- e. **Licensor warrants that all services provided** pursuant to this agreement shall be provided by personnel who are appropriately trained to provide such services and that such services shall be provided in a professional manner.
 - f. **Licensee agrees to provide full cooperation** and access to systems and information necessary in identifying and correcting software issues, including making appropriate individuals available to answer questions regarding the issues, providing system configuration information to confirm compliance with supported systems, and making the Software and its systems available through secure remote access and/or in person for the Licensee's support staff to work with directly.
5. **RATE FOR SERVICES NOT INCLUDED:** If Licensee requests any services from the Licensor that are not covered within this agreement, such services will be billable at an hourly rate of \$150.00 U.S., with a minimum charge of three (3) hours per request plus any travel expenses. Licensee will be notified by Licensor if an issue or request is not covered by this agreement and an estimate will be provided for anticipated charges. Services will not be performed until approved in writing by the Licensee.
- a. Examples of services not covered within this agreement include, but are not limited to, training, configuration of hardware, assistance with configuration of hardware, installation or troubleshooting of server software required by but not included in the Software, installation of upgrades to the Software, network issues, troubleshooting and fixing performance issues not caused by the Software, data restoration/manipulation/deletion due to user error and/or hardware failure, and configuration of the Software features.
 - b. If the Licensor is troubleshooting a support issue which begins to look like an issue not covered within this agreement, the Licensor will contact the Licensee and inform the Licensee of the situation. The Licensor will provide the Licensee with an estimate of potential charges. If it is later found that the support issue is indeed a result of Licensee error or neglect, then the Licensor reserves the right to charge the Licensee for such services. In addition to examples in 5a. of services not covered within this agreement which may result in additional charges, examples include, but are not limited to, Licensee error in installation of the Software, not installing the specified configuration, not installing required hardware updates, not installing updates for server software that are required by but not included in the Software and any resulting cleanup of data needed due to such issues.
 - c. Support is provided in a production environment and one test environment. Requests for support beyond these environments are not covered with this agreement.
6. **UPGRADES.** As long as Licensee has a valid maintenance agreement for the Software and is current with payments, Licensee will be entitled to receive all maintenance releases and upgrades at no additional charge. Licensor will notify Licensee of all available upgrades via email and Licensee will be able to download the upgrade via the internet and install

the software by following the installation guide that will be included with all upgrades. All upgrades will also contain release notes that document the enhancements and/or bug fixes that are addressed with the upgrade.

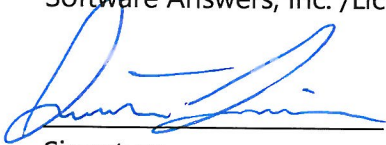
7. **USE OF SOFTWARE.** Licensee shall keep the Software at its place of business as specified above. Licensee covenants and agrees not to allow the use of the Software by other businesses; entities or individuals and that said Software shall be used only on the workstations and/or servers authorized by this License. Licensee further covenants and agrees not to rent, sublease, license, transfer, donate, commercially exploit, reverse engineer, decompile, disassemble (or allow the same to occur) the Software, or any part thereof. Upon expiration or termination of this License, Licensee, at its sole expense, shall remove all instances of the Software.
8. **INDEMNITY.** Licensee shall indemnify and hold Licensor harmless of and from any and all claims, losses, liabilities, damages, judgments, suits or legal proceedings, including court costs, expenses and reasonable attorney's fees, arising from Licensee's negligence or other wrongful use of the Software; provided, however, that Licensee's liability under this paragraph shall not exceed the amount of any insurance coverage or proceeds available to Licensee for such purpose. Licensor shall indemnify and hold Licensee harmless to the same degree expressed herein, provided, however, that Licensor's liability under this paragraph shall not exceed the amount of any insurance coverage or proceeds available to Licensor for such purpose.
9. **TITLE.** All of the Software shall remain personal property and the title thereto shall remain with the Licensor at all times. Licensee shall keep the Software free from any and all judgments, liens and encumbrances. Licensee shall give Licensor immediate notice of any attachment or other judicial lien, and save Licensor harmless from any loss or damage caused thereby.
10. **CONFIDENTIALITY.** During the course of this Agreement or any support and/or maintenance agreement connected to this agreement, either party may have or may be provided access to the other's proprietary items or confidential information ("Confidential Information"). Except as may be otherwise required by law, each party agrees to maintain the confidentiality of the other's Confidential Information in accordance with this provision and any separate nondisclosure agreement that expressly references the disclosure(s) between Licensor and Licensee. At a minimum, each party agrees that, except as otherwise required by law, it shall not make the other's Confidential Information available to any third party without the written consent of the other and that title and ownership of the Confidential Information provided by one party to the other shall remain the exclusive property of the party who has the right to possess the Confidential Information. The obligation to maintain confidentiality of information shall survive the termination of this agreement.

11. **RIGHT OF INSPECTION.** Licensor, its agents and representatives shall have the right at any time during usual business hours to inspect the Software and for that purpose to have access to the location of the Software.
12. **COMPLIANCE WITH LAW.** Licensor and Licensee agree to comply with all applicable federal, state and local laws in its performance of this Agreement. If any provision of this Agreement is in conflict with any such law, then such law shall prevail.
13. **ATTORNEYS' FEES.** In the event either the Licensor or Licensee is required to retain the services of any attorney to enforce their rights under this License, and the same results in legal action being filed, then the prevailing party shall be entitled to all reasonable and necessary attorneys' fees, court costs and disbursements.
14. **BINDING AGREEMENT.** This License shall be binding upon the Licensee and its heirs, legal representatives, successors and assigns and shall insure to the benefit of the Licensor, its successors, legal representatives and assigns.
15. **GOVERNING LAW. THIS AGREEMENT SHALL BE DEEMED TO BE MADE AND EXECUTED IN CUYAHOGA COUNTY, OHIO AND SHALL BE INTERPRETED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OHIO.**
16. **SEVERABILITY.** If any provision hereof or any remedy herein provided for is invalid under any applicable law, such provision shall be inapplicable and deemed omitted. However, the remaining portions herein, including remaining default remedies, shall be given full force and effect in accordance with the intent of this document.
17. **Termination.** Licensee's rights under this Agreement will terminate immediately and without notice from Licensor if Licensee materially breaches this Agreement or takes any action in derogation of Licensor's rights in the Software. Notwithstanding the foregoing, if Licensee breaches its payment obligations, Licensee shall have thirty (30) days from notice of the breach in which to cure the same, failing which, termination will become effective at the end of such thirty (30) day period. In the event of termination due to a breach by the Licensee as a result of nonpayment or for any other default, the Licensee will be obligated to pay the license fees through the end of the term of the license or any extension thereof.
18. **NO OTHER AGREEMENTS.** This instrument effective 7/12/2013 contains the entire agreement between the parties hereto with respect to the subject matter contained herein. There are no other agreements, written or unwritten, that shall bind parties. This agreement supersedes any prior agreements entered into by the parties.

SOFTWARE ANSWERS

Software Answers, Inc. /Licensor

Plumb Borough School District/Licensee



Signature

7-12-2013

Date

Signature

Date

Robert Ling

Printed Name

Printed Name

