



SUBSCRIPTION TERMS AND CONDITIONS OF SERVICE

These Subscription Terms and Conditions of Service (“Subscription Terms”) shall apply to all purchase orders and amendments thereto (“Order”). These Subscription Terms apply not only to the party entering into an Order, but also, where applicable, to any school district, school or other legal entity such party purports to represent, as well as any administrator or end-user who obtains access by virtue of such party’s actions, including students, their families, faculty and staff, whether intended or not (collectively, "Licensee"). By using the T2K System or receiving Professional Services, Licensee agrees to these Subscription Terms. If Licensee does not agree to all of the following Subscription Terms, Licensee should immediately cease use of the T2K System, cease receiving any Professional Services, and contact T2K.

WHEREAS: Time To Know, Inc.’s (together with its affiliates, “T2K”) proprietary digital teaching platform is comprised of comprehensive instructional, learning, assessment and management software modules, a repository of curriculum content and comprehensive user manuals or related documentation (collectively, the “T2K System”), and T2K provides certain professional services of its staff and/or contractors (including without limitation, instructional coaches, technicians, professional development instructors and training coaches) to support its Licensees in the effective use of the T2K System (the “Professional Services”); and

WHEREAS: Licensee desires to license the T2K System and to procure certain of the Professional Services as set forth in its Order(s) in accordance with these Subscription Terms (the “Subscription”).

T2K and Licensee are sometimes referred to herein as the “Parties” or individually as a “Party”.

1. License. Upon T2K's written acceptance of an Order from Licensee, T2K shall grant and does hereby grant to Licensee a non-exclusive, non-transferable, limited license to access and use the T2K System, for the number of districts, schools, grade levels, students, and other particulars specified in such Order, subject to the payment of the fees as provided in the applicable Order and subject to these Subscription Terms.

2. Price and Payment. Licensee shall pay T2K the fees in accordance with the payment schedule set forth in the applicable Order. Payments not made when due shall be subject to late charges of the lesser of (a) two percent (2%) per month of the overdue amount or (b) the maximum amount permitted under applicable law. For an Order identifying prices which utilize a site count or individual user count, T2K reserves the right to audit the user or site count on an annual basis as well as anytime Licensee indicates that the site or user count has increased more than specified in the original Order. Should T2K discover the number of Users or Sites accessing the T2K System to be larger than the number(s) identified in the applicable Order, T2K will notify Licensee and invoice Licensee to reflect the revised count.

3. Ownership. Title to the T2K System, its components and any related intellectual property rights and improvements to or derivatives of the T2K System shall remain solely with T2K and/or its licensors. Licensee shall not modify, reverse engineer, copy, duplicate or reproduce any component of the T2K System without the explicit prior written consent of T2K. Licensee shall use the T2K System only as set forth in the applicable Order and in accordance with these Subscription Terms. For the avoidance of doubt, these Subscription Terms do not transfer or assign any right of ownership or any other intellectual property rights in the T2K System or its components (including, without limitation, the content database) to Licensee or to any third party. T2K reserves the right, at any time and in its discretion, to make changes to the T2K System. No part of the T2K System content is to be copied, distributed, or otherwise transmitted to the public, by any means, whether electronically, mechanically, optically, photographically or otherwise. Licensee is not authorized to use the name, logo or trademarks of T2K without the prior written approval of T2K, nor shall Licensee remove or modify any notice regarding privacy, copyrights (including credits), trademarks, patents or other intellectual property rights notices within the T2K System.

4. Confidentiality. T2K and Licensee may become privy to each other’s confidential and proprietary information, whether oral or in writing or in any other form and regardless of the source of such information, including all derived information, findings, analysis, data, reports or other information learned or developed and based thereon (“Confidential Information”). Confidential Information shall not include information: (a) that has entered the public domain, other than as a result of a breach by the receiving party of its undertakings in this section; (b) that was already known to the receiving party at the time such Confidential Information was received, as evidenced by written records; (c) lawfully obtained by the receiving party from any third party, free of any obligation to keep it confidential; or (d) that is required to be disclosed pursuant to law; provided, however, that, to the extent practicable and unless prohibited by law, the receiving party first notifies the other party to enable it to seek relief from such requirement. For the avoidance of doubt, Licensee’s Confidential Information includes, but is not limited to, any personally identifiable information related to Licensee’s students, student families or guardians, teachers, staff, agents and/or volunteers. Neither party shall disclose to any person or entity, without the prior written consent of the other party, any



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Confidential Information, other than to those of its employees and agents who have a need to know such information for the propose of effecting an Order and each party must ensure that all such entities and personnel are aware of these confidentiality obligations and comply with these terms. Notwithstanding anything contained herein, T2K shall be permitted to disclose the fact that Licensee has engaged T2K for the use of the T2K System, and to the extent permitted by law, T2K may use any data collected by the T2K System for research and/or marketing purposes and to make improvements to the T2K System, provided that T2K will not disclose any data containing personally identifiable information. In the event of any breach of these terms each party acknowledges that the non-breaching party would suffer irreparable harm and shall therefore be entitled to seek injunctive relief.

5. Licensee Responsibilities.

(a) Licensee shall be responsible for providing, installing and maintaining all hardware, software and other equipment necessary for access to and use of the T2K System, in accordance with the specifications provided to Licensee by T2K.

(b) Licensee shall be responsible for all activities that occur within Licensee's account, including without limitation, maintaining the confidentiality of any password(s) and notifying T2K of any unauthorized use of Licensee's password(s) or account or any other breach of security that is known or suspected by Licensee.

(c) Licensee shall be responsible for explaining these Subscription Terms to permitted end users of the T2K System, including the parents or legal guardians of any minor, and to obtain their consent for the minor's use of the T2K System where such consent is required by law. By registering a student (or other end user) or providing for use of the T2K System, Licensee is representing that any such consents required have been obtained.

(d) Licensee must ensure that any content materials that are altered in or added to the T2K System by Licensee do not infringe on any third party's intellectual property rights.

(e) Upon reasonable advance notice by T2K, Licensee will permit T2K physical access to the T2K System (including any equipment used in connection with the T2K System) at the sites where the T2K System is being used in accordance with the terms hereof, as needed by T2K in order for it to (i) meet its obligations under any Order or these Subscription Terms, (ii) upgrade the T2K System as may be required, (iii) confirm Licensee's compliance with these Subscription Terms, (iv) conduct an audit in connection with Section 2 above, or (v) to uninstall the T2K System in the event of termination of the Subscription. While working at a Licensee site, T2K will use its best efforts not to unreasonably disrupt any normal operations at such site. If prior fingerprinting or other background checks or documentation is required prior to T2K personnel or its agents accessing a Licensee site, Licensee shall be solely responsible to provide advance notice in writing (which may include email) of such requirements to T2K prior to permitting such access by T2K.

6. Compliance with Laws. The parties agree to abide by all applicable local, state, and federal laws, regulations, statutes, rules and ordinances, in connection with these Subscription Terms and any Order(s). Without limiting the foregoing, Licensee shall not use the T2K System to: (a) send unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages, whether commercial or otherwise; (b) transmit through or post material of any kind or nature that is unlawful, defamatory, threatening, harmful to minors in any way, invasive of another's privacy, obscene or otherwise objectionable; (c) transmit any material that may infringe the intellectual property rights or other rights of third parties, including trademark, trade secret, copyright or right of publicity; (d) intentionally transmit any material that contains software viruses or other harmful or deleterious computer code, files or programs; (e) interfere with or disrupt servers or networks connected to the T2K System; or (f) attempt to gain unauthorized access to the T2K System, other accounts, computer systems or networks connected to the T2K System. Licensee represents and warrants that it is now, and shall remain, in compliance with applicable information and on-line protection laws, including, but not limited to, the Children's Online Privacy Protection Act ("COPPA") and Family Educational Rights and Privacy Act ("FERPA"). To the extent that "personally identifiable information" as to any student is provided to T2K, Licensee represents and warrants that it has obtained all requisite consents and authorizations or otherwise has the authority to provide such information to T2K. To the extent that any information covered by FERPA is being made available to T2K or to any third party (including other students), Licensee represents and warrants that it has given all applicable notices and has received all applicable consents and has not received any effective objections thereto.

7. Representations. Each of the parties hereto represents and warrants to the other party that (a) it has all



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necessary corporate or other organizational power and authority to execute any Orders and to perform its obligations hereunder; (b) the execution and delivery of any Order by such party and the performance by such party of its obligations hereunder have been duly and validly authorized by all requisite corporate or other organizational action on its part; and (c) any consent, waiver, approval, permit or authorization of or filing with, or notification to, any person, board, agency or governmental body that is required on the part of such party in connection with the Order or the performance of such party's obligations hereunder has been properly obtained or provided.

8. Indemnification. Licensee agrees to indemnify and defend T2K and its agents, employees, representatives, licensors, affiliates, corporate parents and subsidiaries from and against any and all claims, losses, demands, causes of action and judgments (including attorneys' fees and court costs) (collectively "Claims") arising from or concerning Licensee's use of the T2K System, unless such Claims result directly from T2K's gross negligence or willful misconduct.

9. Limitation of Liability.

(a) The T2K System (and each of its component parts) is provided AS IS. In no event does T2K or its agents warrant or guarantee (i) that the T2K System is error free or that the T2K System will operate without problems or interruptions or (ii) the success of any of the T2K System's educational or pedagogical methods.

(b) When using the T2K internet site (timetoknow.com), Licensee shall be subject to the terms and privacy policy set forth on such site, in addition to, and not in limitation of, these Subscription Terms. In addition, T2K may allow access to external internet sites as a service to Licensee. When Licensee enters into a link to an external site, Licensee is leaving the T2K System and is subject to the policies and terms of the linked site. The linked sites are owned and managed by third parties, and are not under the control of T2K. T2K does not check the linked sites, and T2K shall not be liable in connection with those sites, including, without limitation, for the quality of the content found on linked sites, their credibility, legality or whether they are in breach of other third party rights. Any access to external internet sites from the T2K System is solely at the discretion and responsibility of Licensee.

(c) T2K has taken steps to protect against unauthorized access to the T2K System. Nevertheless, T2K does not guarantee that unauthorized third parties will not be able to gain access to the T2K System, gather confidential data (including personally identifiable information), and use such data for unauthorized purposes. Licensee hereby acknowledges and agrees that computer systems and the electronic transmission of information are fundamentally unsafe and that there is no way to guarantee that stored data or data transferred via the internet will be safe from unauthorized access, use, alteration or sabotage by others.

(d) EXCEPT AS SPECIFIED IN THIS AGREEMENT, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW.

(e) In no event will T2K or its agents be liable for any lost revenue, profit, or for special, indirect, consequential, incidental or punitive damages, however caused and regardless of the theory of liability, even if T2K or its agents have been advised of the possibility of such damages. Without derogating from the generality of the foregoing, T2K will not bear any liability for software viruses or other harmful or deleterious computer code, files or programs which may interfere with or damage the T2K System, nor any liability for any interference or damage to the computer systems or infrastructure of Licensee that result from use of the T2K System. T2K shall not have any liability for damages in excess of the fees paid by Licensee to T2K during the three (3) months prior to any claim.

10. Term and Termination. The Subscription term shall be as set forth in the applicable Order, provided that either party may terminate the Subscription in the event that either party materially breaches the terms of the applicable Order or these Subscription Terms, and fails to correct such breach within a thirty (30) day period after receipt of written notice thereof. T2K shall have the right to terminate the Subscription upon written notice in the event Licensee breaches any of its obligations under Section 5 above or in accordance with Section 11 below. Upon the expiration or termination of the Subscription, (a) all licenses granted hereunder shall terminate and Licensee and all of its permitted end users shall cease using the T2K System and Licensee shall promptly pay to T2K any outstanding fees that are owed through the termination date, and (b) each party will promptly return and/or destroy (as the other party may decide) all



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property and materials belonging to the other party or its agents in its possession or under its control, and upon the request of the other party, shall certify in writing its having complied with such return and/or destruction. In the event that the Subscription expires or is terminated as provided herein, each of the parties shall be relieved of its duties and obligations arising under any Order or these Subscription Terms; provided, however, that (y) the obligations of the parties set forth in Sections 2,3, 8, 9, or 13 hereof shall survive any such expiration or termination and, (z) nothing herein shall relieve either party of any liability for any breach of an Order or these Subscription Terms prior to the effective date of such expiration or termination.

11. Infringement. Should the T2K System or any part thereof become, or in T2K's reasonable opinion be likely to become, the subject of a claim of infringement or misappropriation, T2K will have the right, at T2K's option and expense: (a) to procure for Licensee the right to continue using the T2K System, (b) to replace or modify the T2K System with a non-infringing version of substantially equivalent function and performance or (c) to require the return of the T2K System in exchange for a refund of amounts paid during the prior three (3) months and thereupon immediately terminate the Subscription.

12. Taxes. All fees set forth in these Subscription Terms or any Order are exclusive of all sales, use, value-added, excise, property, withholding, and other taxes and duties. Licensee will pay all taxes and duties assessed by any authority in connection with these Subscription Terms or any Order and with Licensee's performance hereunder. Licensee will promptly reimburse T2K for any and all taxes or duties that T2K may be required to pay in connection with these Subscription Terms or any Order or its performance. This Section does not apply to franchise taxes, taxes based on T2K income, or any taxes for which Licensee is exempt if Licensee timely furnishes T2K with a valid tax exemption certificate.

13. Governing Law; Jurisdiction. Any Order and the Subscription Terms shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and performed in such State. Venue for any legal proceeding shall be in New York County, New York.

14. Severability. If any provision of these Subscription Terms and/or Order should, for any reason, be held by a court of competent jurisdiction to be invalid or unenforceable in any respect, the remainder of these Subscription Terms or the Order, as applicable, will be enforced and in no way affected or impaired and will be construed so as to give effect to the intended interpretation of these Subscription Terms or Order as set forth herein or therein to the fullest extent permitted by law.

15. Force Majeure; Performance Excused. T2K will not be liable for any failure to perform, or delays in the performance of its obligations under these Subscription Terms or any Order, if such failure or delay is beyond T2K's reasonable control for reasons including, without limitation, acts of God, fire, flood, strikes, work stoppages, governmental action, delays of suppliers or subcontractors, war or civil disturbance, self regulatory organization, telephone line or computer hardware failures and any other telecommunication failures.

16. Notice and Delivery. All notices and deliveries required to be made under these Subscription Terms and any Order will be made in writing and delivered by hand or by a reputable next day courier. Such notice or delivery, if to T2K, will be sent to Time To Know, Inc., 444 Madison Avenue, 4th FL, New York, NY, 10022, Attention: General Counsel, and, if to Licensee, will be sent to any contact specified by Licensee in the Order. Alternative contact addresses for the parties may otherwise be agreed to in writing. Notice will be deemed given upon receipt.

17. Entire Agreement. These Subscription Terms and any applicable Order, as well as any other terms specifically incorporated herein by reference, contain the entire agreement between the parties as to the subject matter hereof. This Agreement supersedes all prior oral and written agreements between the parties as to the subject matter hereof. All such prior agreements are hereby canceled, including but not limited to any existing license agreements between T2K and Licensee.

18. General. (a) No amendment or modification to an Order will be valid or binding upon the parties unless made in writing and signed by the duly authorized representatives of both parties, provided that T2K reserves the right, at any time, and at its discretion, to amend and/or modify these Subscription Terms, and any continued use thereafter of the T2K System by Licensee will be deemed consent to such amended terms; (b) The relationship of the parties hereunder is that of independent contractors, and neither the Order nor these Subscription Terms will be construed to imply that either party is the agent, employee, or joint venturer of the other; (c) The license granted hereunder is personal in nature and Licensee may not assign, sublicense, subcontract or delegate the Order or any of the rights or obligations described hereunder (by operation of law or otherwise) to any other party without the prior written consent



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of T2K; (d) T2K may assign any Order to an affiliate or to a successor entity in the event of a merger, acquisition or sale of substantially all of its assets; and (d) Waiver by either party of a breach of any provision of the Order or these Subscription Terms will not operate or be construed as a waiver of any subsequent breach of that right or as a waiver of any other right.