

# K12 Panel

## SOFTWARE AS A SERVICE (SaaS) SUBSCRIPTION AGREEMENT

This Software as a Service (SaaS) Subscription Agreement (“Agreement”) is a binding agreement between K12 Montana Inc. (“K12 Montana” or “Company”) and Customer, and governs Customer-delegated users’ use of the K12 Panel Service. By using the Software Service, Customer agrees to the terms and conditions of this Agreement.

This Agreement shall be governed by the laws of the State of Montana, USA applicable to contracts made in and wholly to be performed in the State of Montana, USA without regard to conflicts of law.

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# I. Definitions

For the purposes of this Subscription Agreement:

- **Company** refers to K12 Montana Inc., Box 7390, GREAT FALLS, MT 59406.
- **Customer** means the legal entity entering into this Agreement with the intent to use Service. Customer will have exactly one Google Workspace (or Google Workspace for Education or Google Workspace for Nonprofit) Domain to be imported into Service.
- **Service** refers to the Website and any associated Company-provided software.
- **Subscriptions** refer to the services or access to the Service offered on a subscription basis by the Company to Customer.
- **Subscription Period** is the time period Customer has licensed access to Service.
- **User** means an individual authorized by Customer to access Service on Customer's behalf.
- **Website** refers to K12 Panel, accessible from <https://my.k12panel.com>

# II. Subscription License

**License Intent.** For the duration of the Subscription Period, Company grants Customer license to the Service for the sole and exclusive purpose to use Service functions on Customer-owned and directly-controlled property.

**Single Entity License.** Customer is not permitted to use Service functions on any third party entity's property (Chromebooks, Computers or other assets, either physical or digital). Customer is not permitted to use Service functions on property that is not directly controlled by the Customer (such as Customer-owned property that has been leased, loaned, or in any other way transferred control to a third-party entity.)

# III. Warranties and Limitations of Liability

**General.** Each Party represents and warrants that it has the right and authority to enter into this Agreement, and that by entering into this Agreement, it will not violate, conflict with or cause a material default under any other contract, agreement, or encumbrance to which it is a party.

**Limitations of Liability.** Under no circumstances will Company or anyone else involved in administering, distributing or providing the services, be liable for any indirect, incidental, special or consequential damages that result from the use of or inability to use the services, including but not limited to lost productivity, or damages that result from mistakes, omissions, interruptions, deletion of files or email, errors, defects, viruses, delays in operation or transmission, failure of performance, theft, destruction or unauthorized access to Company or Customer records, programs or services, even if such party has been advised of the possibility

of such damages. In the event of any breach by Company of this agreement, Company's liability to Customer will not exceed the amount paid to Company by Customer during the current annual Subscription Period.

Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including, without limitation, costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of any of the foregoing or otherwise from Customer's use of the Services. Although Company has no obligation to monitor Customer's use of the Services, Company may do so, and Customer hereby authorizes Company to do so. Company may prohibit any use of the Services it believes may be (or is alleged to be) in violation of any term herein.

**Disclaimer.** With respect to the Service, and with exception to the warranties outlined in this section, Company makes no warranties of any kind. No oral or written information given by Company, its employees, or the like will create a warranty.

## IV. Customer Responsibility

Customer will only use Service for the purposes outlined in Subscription License.

Customer will not resell Service.

Customer shall use the Services only for lawful purposes. Customer will not use Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or store or transmit material in violation of third-party privacy rights.

To the extent deemed necessary by Customer, Customer shall implement security procedures necessary to limit access to the Services to Customer's authorized users and shall maintain a procedure external to the Services for reconstruction of lost or altered files, data or programs.

Customer owns and accepts all responsibility for any data, information or material that Customer and its users process or submit to the Service, including any personally identifiable information.

## V. Confidential Intellectual Property

All right, title and interest in and to the Service, and all copyrights, patents, trademarks, service marks, trade secrets, contracts, policies, technical artifacts, or other intellectual property or proprietary rights relating thereto, belong exclusively to Company.

Customer will not directly or indirectly reverse engineer, decompile, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, know-how or algorithms

relevant to the Services or any K12 Panel materials. Customer will not modify, translate, or create derivative works based on the Service.

Company Service and associated intellectual property are confidential. Customer will not communicate or discuss Company intellectual property with third parties.

## VI. Customer Data Ownership and Privacy

Company provides the Services, including related Software and technology, for Customer use in accordance with (20-7-1325, MCA) and (20-7-1326, MCA). In as such:

- A. Customer-provided data continue to be the property of and under the control of Customer;
- B. Company will not use any Customer-provided records for purposes other than those required or specifically permitted by the contract for Service provision;
- C. Company will not share any specific Customer-provided data with any third party;
- D. Company synchronizes personally identifiable information into System from Customer's GSuite domain as read-only in the System and, as such, Customer maintains complete control and responsibility for reviewing any personally identifiable information and correcting erroneous information in the originating Customer GSuite Domain;
- E. Customer records will not be accessed by Company for any purpose other than supporting the Service as outlined by the contract;
- F. Customer data will only be transmitted over TLS 1.2+ Secure Socket Layer (SSL) to web browsers and originating services, and will be stored encrypted at rest with AES-256bit block encryption as per [Heroku best practices](https://bit.ly/2R4J7bu) (<https://bit.ly/2R4J7bu>);
- G. In the unlikely event of a data breach, Company will notify Customer by email of any unauthorized access to Customer data by email or phone within 72 hours of Company's knowledge of any violation and will update Customer throughout resulting investigation;
- H. Customer-provided records will be irrecoverably expunged from the production Service within 30 days of end of the Subscription Agreement unless the Customer requests an accelerated expungement. An email notification to the Customer from leading technical authorities within the Company may be requested as proof of expungement;
- I. FERPA and HIPAA considerations are omitted as no marks, scores, or personal health data are supported as data fields provided by the Service. Any use by Customer to store such sensitive information in the Service is done solely at Customer's discretion and risk;
- J. Company does not engage in targeted advertising of any kind based on Customer data;
- K. Company may use usage metrics or Customer Data in aggregate and anonymized form to improve or enhance Service.

By entering into this agreement, Customer acknowledges that any and all relevant state and federal laws related to Customer Data Privacy are satisfied by Agreement.

## VIII. Terms and Pricing

Initial term and Subscription Period of this Agreement is One (1) Year starting from the Service Term Start Date. This Agreement shall automatically renew for additional terms of one (1) year unless either Party shall give notice of cancellation at least thirty (30) days prior to the expiration of the original term or any renewal term thereof. Company will send an Annual Renewal Notice to Customer with the prevailing renewal price prior to the expiration of the current term.

Services will be terminated if payments are not received by the initial term Payment Due Date, or by terms outlined in Annual Renewal Notice for any renewal thereof.

If Customer terminates this Agreement, Customer is due no repayment of Subscription fees already rendered for the Subscription Period. Customer is offered no proration for a Subscription Period if Customer signs after Service Term Start Date.

<b>CUSTOMER</b>	<b>ELDER GROVE SCHOOL DISTRICT #8 1532 S 64th St W Billings, MT 59106</b>
<b>GOOGLE WORKSPACE DOMAIN</b>	<b>eldergrove.k12.mt.us</b>
<b>SERVICE TERM START DATE:</b>	<b>MAY 5, 2021</b>
<b>SERVICE TERM EXPIRATION DATE:</b>	<b>JUNE 30, 2021</b>
<b>PAYMENT DUE DATE:</b>	<b>NO PAYMENT, NO AUTO-RENEW, NO ONGOING COMMITMENT. THIS IS A BETA AGREEMENT.</b>

<b>SERVICE PROVIDED</b>	<b>UNIT</b>	<b>PER</b>	<b>PRICING</b>
<b>ANNUAL SERVICE PER STUDENT COUNT</b>	587	FREE_BETA	\$0.00
<b>TOTAL DUE BY PAYMENT DUE DATE:</b>			<b>\$0.00</b>



*MAY 5, 2021*

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**CUSTOMER REPRESENTATIVE  
SIGNATURE AND DATE**

\_\_\_\_\_  
**COMPANY REPRESENTATIVE  
SIGNATURE AND DATE**