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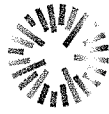
Behavior Advantage, LLC Software License & Clinical Support Agreement

Introduction and Purpose

Behavior Advantage, LLC (hereinafter known as “Behavior Advantage”) is the creator and owner of several web-based applications known as Behavior Advantage, for use by educators supporting pupils with behavioral needs. A “Customer” of Behavior Advantage includes a school district, a special education local plan area of the State of Wyoming, a Non-Public Agency certified by a State Department of Education that has licensed Behavior Advantage from Provider through the “Behavior Advantage, LLC License Agreement” (“Agreement”).

General Terms and Conditions

1. Grant of Automatically Renewable Software License Agreement: Behavior Advantage having offices at P.O. Box 1421, Truckee, CA 96160 agrees to grant a non-transferable, non-sub licensable, non-salable Renewable License for use of the Behavior Advantage software to Campbell County School District #1 (hereinafter known as “Customer”), for use from the date this agreement is signed through and until either Customer or Behavior Advantage requests to terminate this agreement in writing, under the governing laws of the state of California. This License agreement cannot be modified without mutual consent of all parties.
2. Software Warranty: Behavior Advantage warrants that the Behavior Advantage Software will operate in reasonable substantial conformity with the documentation and all written and oral representations made when the product is used in accordance with the recommendations, training and direction of Behavior Advantage.
3. Implementation & Support Services Warranty: Behavior Advantage warrants that all services provided by Behavior Advantage staff and its contractors will be conducted by highly skilled professionals and in accordance with all professional industry standards of practice.
4. Costs & Payment: Annually renewable license fees, subscription fees, and clinical support services are outlined in the Behavior Advantage costs proposal and to be paid in full within 60 days of the date on invoices provided in accordance with the terms of this agreement.
5. Student Data Security & Privacy:
 - a. Student Data Security: Behavior Advantage will not use student, staff or any data for any reason except for the provision of the Behavior Advantage software to Customer in accordance with all CA state laws and education codes. Behavior Advantage shall maintain student data security systems consistent with industry standard practices.
 - b. Backup & Disaster Recovery: Behavior Advantage shall create and maintain a backup plan whereby Licensee Content is backed up to a data center and maintain backups of Customer’s student data and content.
6. Online Clinical Support and Consultation:
 - a. Informed Consent: Customer will secure informed consent, when appropriate or necessary, prior to accessing Behavior Advantage Online Clinical Supports regarding individual students. Informed consent will include notification that Behavior Advantage, as a contracting vendor to Customer, is providing consultation and support for an individual student. Customer shall defend, indemnify and hold harmless Behavior Advantage and its officers, directors, employees, and agents from all costs, including but not limited to, claims, liabilities, actions, attorneys’ fees and any fines arising out of or resulting from any claim, suit, action or proceeding arising out of or resulting from a lack of or inadequate notification or secured informed consent prior to or commensurate with online consultation and support services rendered.
 - b. Online Clinical Support Packages: Pre-purchased Online Clinical Support Package hours for consultation with a Behavior Advantage specialist are valid and can be utilized for consultation



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services across multiple annual school years, if Customer maintains a software subscription with Behavior Advantage. Pre-purchased Online Clinical Support Package hours are void if and when a current software subscription is terminated or non-renewed.

7. User Support:

- a. Telephone Support: Behavior Advantage will provide a telephone number(s) that users can call anytime between 8 AM and 6 PM PST to receive responsive and professional support, if a Behavior Advantage staff member is not available, we will return the call quickly and as appropriate to the urgency of the issue.
- b. Email Support Services: Will provide email support 8 AM to 6 pm PST and promptly respond to user's needs.

8. Authorized Users: "Authorized User" means the individual(s) or entity(ies) who are authorized by the Customer to access Behavior Advantage on behalf of the Customer according to the terms of the Agreement. Authorized Users are limited to a Customer's designated employees. Customer acknowledges and agrees that only Authorized Users may gain access to Behavior Advantage via the Internet through Authorized Users' Personal User Identification and Password. Customer is responsible for tracking current Authorized Users and notifying Behavior Advantage when any user accounts require de-activation for any reason. Customer agrees that access to Behavior Advantage by Authorized Users is contingent upon the Customer having a valid Agreement with the Provider. Should this Agreement end or terminate, Customer acknowledges and understands that Authorized Users will not have the right to access or use Behavior Advantage on behalf of the Customer. Authorized Users' Personal User Identification and Password, associated with the Customer, shall be deactivated.

9. Downtime: Licensee agrees that from time to time the Application Hosting Services (Currently Amazon Web Services) may be inaccessible or inoperable for various reasons beyond Behavior Advantage control such as internet related equipment malfunctions, interruption or failure of telecommunications or digital transmission links, hostile network attacks, network congestion or other failures.

10. Intellectual and Real Property: Customer acknowledges that the Behavior Advantage applications; all source code, object code, class libraries, user interface screens, algorithms, development frameworks, repository, system designs, system logic flow, and processing techniques and procedures related to the design and function of Behavior Advantage are exclusively the sole property of Behavior Advantage and are confidential information. Customer shall not allow any "Authorized User" or third party to view, adapt, modify, change, maintain, translate, decompile, disassemble, reconstruct, or reverse engineer the Behavior Advantage Products or identify or discover any source code, or distribute, sell or sublicense copies, incorporate any portion of Behavior Advantage Products into or with any other products, or create any derivative works of the Behavior Advantage Products.

11. Binding Arbitration: In the event that a dispute should arise, both parties agree to refer the dispute to binding arbitration in the State of California. The parties agree that the Dispute shall forthwith be referred to arbitration (the "Arbitration") pursuant to the rules of the American Arbitration Association.

12. Force Majeure: A party will not be in breach of or in default under this agreement on account of, and will not be liable to the other party for, any delay or failure to perform its obligations under this agreement by reason of fire, earthquake, flood, explosion, strike, riot, war, terrorism, or similar event beyond the party's reasonable control (each a "Force Majeure Event"). However, if a Force Majeure Event occurs, the affected party shall, as soon as practicable: (a) notify the other party of the Force Majeure Event and its impact on performance under this agreement; and (b) use reasonable efforts to resolve any issues resulting from the Force Majeure Event and perform its obligations under this agreement.

13. Governing Law: (a) Choice of Law. The laws of the State of California govern this agreement (without giving effect to its conflicts of law principles). (b) Choice of Forum. Both parties consent to the personal jurisdiction of the state and federal courts in Inyo County, California.

14. Amendments: No amendments to this agreement will be effective unless it is in writing and signed by a party or its authorized representative.



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- 15. **Assignment and Delegation:** (a) No assignment. Neither party may assign any of its rights under this agreement, except with the prior written consent of the other party. All voluntary assignments of rights are limited by this subsection. (b) No delegation. Neither party may delegate any performance under this agreement, except with the prior written consent of the other party. (c) Enforceability of an Assignment or Delegation. If a purported assignment or purported delegation is made in violation of this section, it is void.
- 16. **Counterparts; Electronic Signatures:** (a) Counterparts. The parties may execute this agreement in any number of counterparts, each of which is an original but all of which constitute one and the same instrument. (b) Electronic Signatures. This agreement, agreements ancillary to this agreement, and related documents entered into in connection with this agreement are signed when a party's signature is delivered by facsimile, email, or other electronic medium. These signatures must be treated in all respects as having the same force and effect as original signatures.
- 17. **Severability:** If any one or more of the provisions contained in this agreement is, for any reason, held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not effect any other provisions of this agreement, but this agreement will be construed as if those invalid, illegal, or unenforceable provisions had never been contained in it, unless the deletion of those provisions would result in such a material change so as to defeat the completion of the transactions contemplated by this agreement to be unreasonable.
- 18. **Entire Agreement:** This agreement constitutes the final agreement of the parties. It is the complete and exclusive expression of the parties' agreement with respect to the subject matter of this agreement. All prior and contemporaneous communications, negotiations, and agreements between the parties relating to the subject matter of this agreement are expressly merged into and superseded by this agreement. The provisions of this agreement may not be explained, supplemented, or qualified by evidence of trade usage or a prior course of dealings. Neither party was induced to enter this agreement by, and neither party is relying on, any statement, representation, warranty, or agreement of the other party except those set forth expressly in this agreement. Except as set forth expressly in this agreement, there are no conditions precedent to this agreement's effectiveness.
- 19. **Headings:** The descriptive headings of the sections and subsections of this agreement are for convenience only, and do not affect this agreement's construction or interpretation.
- 20. **Effectiveness:** This agreement will become effective when all parties have signed it. The date this agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the date of this agreement.
- 21. **Necessary Acts; Further Assurances:** Each party shall use all reasonable efforts to take, or cause to be taken, all actions necessary or desirable to consummate and make effective the transactions this agreement contemplate or to evidence or carry out the intent and purpose of this agreement.

Authorized Representative



Printed Name

Luke Danforth

Title

Special Education Director

Date

6-7-2022

Authorized Representative

Printed Name

Title

Date
