

SUNGARD K-12
END-USER AGREEMENT

BETWEEN

SunGard Public Sector LLC
a corporation with a business address at:

3 West Broad Street, Suite 1
Bethlehem, PA 18018
Phone #: (610) 691-3616
Fax #: (610) 691-1031

("SunGard K-12")

AND

Participating Entity Name: _____
Participating Entity Address: _____
City, State, Zip _____
Phone#: _____
Fax#: _____

("End-User")

SunGard Public Sector LLC



BY: _____

BY: _____

PRINT NAME: _____

PRINT NAME: Adam R. Eberle

PRINT TITLE: _____

PRINT TITLE: Chief Commercial Officer

DATE SIGNED: _____

DATE SIGNED: _____

This End-user Agreement (this "Agreement") is made between SunGard K-12 and End-User as of the Execution Date. Throughout this Agreement, SunGard K-12 is referred to as "We," "Us" and "Our"; and End-User is referred to as "Client", "You" and "Your."

Background

We have granted Management Council of the Ohio Education Computer Network ("MCOECN") the right to grant sublicenses to use certain software listed on Exhibit A hereto ("Software") which MCOECN will host You and other schools and educational service entities and information technology centers in the State of Ohio in accordance with the terms and conditions of that certain Master Software, Maintenance and Services Agreement dated May 6, 2016 between MCOECN and SunGard K-12 (the "License Agreement").

In order for You to be authorized to use the Software, SunGard K-12 requires that you agree to certain terms and conditions surrounding the use of such Software.

Accordingly, You and We agree as follows:

1. DEFINITIONS.

"Component System" means all copies of Source Code, Object Code and all related specifications, Documentation, technical information, and all corrections, modifications, additions, improvements, derivative works and enhancements to and all Intellectual Property Rights for that Component System.

"Confidential Information" means Your information that You maintain as "confidential," or Our Confidential Information that We maintain as "Confidential." For example, Our Confidential Information includes the Software, all software provided with the Software, and algorithms, methods, techniques and processes revealed by the Source Code of the Software and any software provided with the Software. Your Confidential Information includes student and employee records and data. Confidential Information does not include information that: (i) is or becomes known to the public without fault or breach of the Recipient; (ii) the Discloser regularly discloses to third parties without restriction on disclosure; or (iii) the Recipient obtains from a third party without restriction on disclosure and without breach of a non-disclosure obligation; provided however that notwithstanding (i) – (iii), any personally identifiable information shall always be Confidential Information.

"Discloser" means You, when You provide Your Confidential Information to Us; or Us, when We provide Our Confidential Information to You.

"Execution Date" For this Agreement, the Execution Date is the latest date shown on the signature page of this Agreement.

"Intellectual Property Rights" means all patents, patent rights, patent applications, copyrights, copyright registrations, trade secrets, trademarks and service marks and Confidential Information.

"Object Code" means computer programs assembled, compiled, or converted to magnetic or electronic binary form on software media, which are readable and usable by computer equipment.

"Personnel" means: (i) Your employees with a need to know; and (ii) third party consultants that You have engaged and who have a need to know who You maintain agreements with that contain confidentiality obligations no less stringent than the confidentiality obligations under this Agreement, provided that any third party consultant (including an entity providing outsourcing or hosting services) that is a competitor of SunGard K-12 or its affiliates, shall not be considered Personnel without SunGard K-12's prior written consent and an executed non-disclosure agreement that has been approved by SunGard K-12.

"Recipient" means You, when receiving Our Confidential Information; or Us, when receiving Your Confidential Information.

“Software” refers to those Component Systems in the aggregate that We have licensed to MCOECN for use by You.

2. **AUTHORIZATION TO USE:** MCOECN, as licensee and sublicensor, and SunGard K-12, as licensor, have authorized You to use the Software within the State of Ohio for Your own non-commercial computing operations.

3. **PAYMENT.** The parties acknowledge that MCOECN shall collect and End-User or the applicable Information Technology Center (“ITC”) shall pay to MCOECN, and not SunGard K-12, such fees resulting from End-User’s use of the Software or any Consulting Services provided by SunGard K-12.

4. RESTRICTIONS ON USE OF THE SOFTWARE. You are prohibited from causing or permitting the reverse engineering, disassembly or decompilation of any of the Software. You are also prohibited from using the Software to provide service bureau data processing services or to otherwise provide data processing services to third parties. You may not allow the Software to be used by, or disclose all or any part of the Software to, any person except Your Personnel; however, You can allow use of the input and/or output visual displays of or from the Software by third parties on a “need to know” basis, as You reasonably determine. You may not allow the Software, in whole or in part, to be exported outside of the United States of America, in any manner or by any means, without in each instance obtaining Our prior written consent and, if required, a validated export license from the Office of Export Administration within the U.S. Department of Commerce and such other appropriate United States governmental authorities.

Intellectual Property Rights Notices. You may not remove or alter any of the Intellectual Property Rights notice(s) embedded in or that We otherwise include with the Software.

5. **CONFIDENTIAL INFORMATION.** Except as required under law and otherwise permitted under this Agreement, the Recipient will not knowingly disclose to any third party, other than MCOECN or the Recipient’s ITC, or make any use of the Discloser’s Confidential Information. The Recipient will use at least the same standard of

care to maintain the confidentiality of the Discloser’s Confidential Information that it uses to maintain the confidentiality of its own Confidential Information of equal importance. The non-disclosure and non-use obligations that this Agreement imposes on You and on Us will remain in full force with respect to each item of Confidential Information for a period of ten (10) years after Recipient’s receipt of that item; However, Your obligations to maintain both the Software and any software provided with the Software as confidential will survive until that Software no longer qualifies as “Confidential Information” under this Agreement.

6. LIMITATIONS OF LIABILITY.

(a) LIMITED LIABILITY OF SUNGARD K-12.

(i) SUNGARD K-12’S TOTAL LIABILITY UNDER THIS AGREEMENT SHALL UNDER NO CIRCUMSTANCES EXCEED THE LICENSE FEE THAT THE MCOECN HAS ACTUALLY PAID TO SUNGARD K-12 FOR YOUR USE OF THE SOFTWARE.

(b) EXCLUSION OF DAMAGES. REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL WE BE LIABLE TO YOU FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

(c) BASIS OF THE BARGAIN. YOU ACKNOWLEDGE THAT WE HAVE ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH IN THIS AGREEMENT, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

7. CONSULTING SERVICES.

(a) As contemplated under the License Agreement, SunGard K-12 will provide Consulting Services to You as set forth in Exhibit B hereto, provided that You meet the requirements of the

End-User as set forth in Exhibit B. You agree to participate in all Services set forth in Exhibit B hereto by the deadline specified in the applicable project plan.

(b) We promise that we will render all services to You in a professional and workmanlike manner.

(c) For Consulting Services, We and MCOECN have developed a project plan outline that identifies each party's responsibilities for such services and establishes the overall project direction. The project plan will describe in detail the scope of services that We will provide. We will consider deviations from Our project plan outline at Our sole discretion. If You are part of an implementation Wave, MCOECN and SunGard K-12 will finalize the project plan to describe the tentative schedule and you will manage Your project personnel team accordingly. We and You will finalize the project plan to describe the tentative schedule and You will assign and manage Your project personnel team. You must assign a project manager who will assume responsibility for management of the project. While We are providing You with services, You must provide Us with access to Your facilities and equipment as necessary, and must additionally provide Us with the support that is reasonably necessary in order for Us to fulfill Our obligations in connection with the services.

8. TERM AND TERMINATION.

(a) Term. The Term of the Agreement shall begin on the Execution Date and continue until the earlier of (i) the termination of License Agreement, (ii) the termination of the Order Form or (iii) pursuant to Section 8(b) immediately below.

(b) Right of Termination. Both You and We have the right to suspend any services or terminate this Agreement if the other party breaches a material provision of this Agreement. For the avoidance of doubt, failure of End-User to pay applicable fees to MCOECN when due shall constitute a material breach of this Agreement. The aggrieved party has the right to terminate this Agreement at any time while an event or condition giving rise to the right of termination exists. To terminate this Agreement, the aggrieved party must give the other party notice, and that notice must provide a reasonably detailed description of the events that constitute breach of this Agreement. From the date of its receipt of that

notice, the other party will have thirty (30) days to cure the breach to the reasonable satisfaction of the aggrieved party. If the event or condition giving rise to the right of termination is not cured within that period, this Agreement will automatically be deemed terminated at the end of that period.

(c) Upon the termination of this Agreement by either party, Your right to receive the Consulting Services and to use the Software terminates.

(d) Survival of Obligations. The provisions of Sections 1, 3, 4, 5, 6 and 8(c) will survive termination of this Agreement.

(e) Termination Without Prejudice to Other Rights and Remedies. Termination of this Agreement will be without prejudice to the terminating party's other rights and remedies pursuant to this Agreement; for instance, Your use of applicable Software after the termination of this Agreement is a violation of this Agreement, and further, may subject You to additional claims under applicable law, including without limitation claims for violation of Our copyright interest in and to the Software.

9. FORCE MAJEURE. Neither party will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control, including Acts of God, acts of war, accident, labor disruption, acts, omissions and defaults of third parties and official, governmental and judicial action not the fault of the party failing or delaying in performance.

10. ASSIGNMENT. Neither party may assign any of its rights or obligations under this Agreement, and any attempt at such assignment will be void without the prior written consent of the other party. For purposes of this Agreement, "assignment" will include use of the Software for benefit of any third party to a merger, acquisition and/or other consolidation by, with or of You, including any new or surviving entity that results from such merger, acquisition and/or other consolidation. However, the following will not be considered "assignments" for purposes of this Agreement: Our assignment of this Agreement or of any of Our rights under this Agreement to Our successor by merger or consolidation or to any person or entity that acquires all or substantially all of its capital stock or assets; and Our assignment of this Agreement to any person or

entity to which We transfer any of Our rights in the Software.

11. NO WAIVER. A party's failure to enforce its rights with respect to any single or continuing breach of this Agreement will not act as a waiver of the right of that party to later enforce any such rights or to enforce any other or any subsequent breach.

12. CHOICE OF LAW; SEVERABILITY. This Agreement will be governed by and construed under the laws of the State of Ohio. If any provision of this Agreement is illegal or unenforceable, it will be deemed stricken from the Agreement and the remaining provisions of the Agreement will remain in full force and effect.

EXHIBIT A TO END USER AGREEMENT- SUBLICENSSED SOFTWARE

Software: eFinancePLUS	
Included Financials Modules:	Component System
Accounts Payable	√
Budgeting	√
Central Receipting	√
Fixed Assets	√
Fixed Assets Communicator	√
General Ledger	√
Miscellaneous billing	√
Personnel Budgeting	√
Project Accounting	√
PunchOut	√
Purchasing	√
Purchasing Card Interface	√
Regulatory Reporting	√
Schools Interoperability Framework SIF Agent	*
Vendor Access Center	[FULL ONLY]
Vendor Bidding	[FULL ONLY]
Warehouse Inventory	[FULL ONLY]
Included Human Resources and Payroll Modules:	
Attendance	√
Employee Access Center	√
Employee Benefits	√
Payroll	√
Personnel	√
Recruitment	√

Regulatory Reporting	√
Salary Projections	√
Position Control	[Full ONLY]
Professional Development	[FULL ONLY]
Included Tools:	
Cognos Reporting	√
Notifications	√
Workflow	√
Employee App	[FULL ONLY]

* The Schools Interoperability Framework SIF Agent shall be part of the base bundle for state reporting purposes only. The full bundle will include the Schools Interoperability Framework SIF Agent for any purpose, including state reporting. SunGard reserves the right to replace this application in the event a more advanced application becomes the industry standard.

**EXHIBIT B TO END USER AGREEMENT -- END-USER RESPONSIBILITIES FOR
INDIVIDUAL DISTRICT PARTICIPATION****

- a. General.** SunGard K-12 will utilize its proprietary project management methodologies in providing users with services in connection with the implementation, configuration and usage of the Software. SunGard K-12 will develop a project plan that identifies each party's responsibilities for such services. The project plan will describe in detail the tentative schedule and the scope of services that SunGard K-12 will provide, which shall, at a minimum, include Ohio specific training plan template and tools, Ohio specific training agendas, Ohio specific training handouts and supplements, Ohio and ITC eLearning, Ohio and ITC Seminar Series, Configuration and setup plans, Conversion Toolkit, and Train the trainer education and certifications. SunGard K-12 will establish the overall project direction, provided that End-user will assign and manage the End-user's project personnel team. The project plan will be defined by SunGard K-12 and be based on our best practices which will be followed by all Participating Entities. Any deviation from those best practices will be considered at our sole discretion.
- b. End-user Project Position Descriptions.** To facilitate SunGard K-12's ability to provide End-user with Services in connection with the implementation and deployment of the Software, End-user must assume certain roles and responsibilities under the project plan. Those responsibilities include designating End-user personnel to serve in but not be limited to each of the positions outlined below:

Role/Position	Sample Description of Responsibilities
Executive Steering Committee	Provide End-user staff and facilities; make decisions on policy changes; final End-user escalation point for project issues.
Project Sponsor	Approve material changes in the project plan; advise Project Managers on resolution of project issues; report project progress to Executive Steering Committee.
End-user Project Manager	Supervise End-user Project Team; fulfill End-user project deliverables; coordinate End-user staff per project plan; work with SunGard K-12 Project Manager to project manage detailed project activities.
Project Team Leads (Application)	Coordinate with the End-user Project Manager in communications and issue resolution; make recommendations to the Project Manager concerning any policy or implementation issues; configure Software based on consulting provided by SunGard K-12; Identify end users to attend training; create end-user training documentation; deliver end-user training classes; provide support to the user community in the post production timeframe.

Project Team Leads (Technical)	Provide converted data to SunGard K-12; provide data conversion specifications; provide workflow specifications and assist SunGard K-12 technical leads with setting up workflows test converted data, workflows and reports for compliance with specifications; set up security profiles.
Functional Experts (SME's)	Support Project Team Leads and Project Manager.

c. Project Escalation Procedures. Issues will arise from time-to-time throughout the course of the project. In order for challenging issues to be addressed in a timely fashion, End-user and SunGard K-12 will utilize the following communication and escalation procedure:

- i. Communications regarding the project will be directed to SunGard K-12's Project Manager and the End-user's Project Manager in order to maintain consistent communication between the parties. Scheduled weekly calls will be maintained between the Project Coordinator and the End-user's Project Team (including the End-user's Project Manager).
- ii. All issues or concerns will be discussed actively and openly between SunGard K-12's Project Team and the End-user's Project Team.
- iii. If issues begin to interfere with the progression of the implementation project, the End-user and/or SunGard K-12 should escalate challenges to SunGard K-12 management as needed.

**For Wave-based implementations, these End-User Responsibilities will be provided in whole or in part by the sponsoring ITC or other eligible entity.