

## **BrightArrow Notification System Subscription Agreement**

This Agreement is made and entered into on 07/10/2023, by and between BrightArrow Technologies, Inc. a Washington corporation with its billing address at PO Box 7493, Bellevue, WA 98008 (“Provider”), and Cedar Falls Community Schools, a School District located at 1002 W. First St, Cedar Falls, IA 50613 (“Client”).

### **BACKGROUND**

**A.** Client desires to use an automated notification service that will perform according to the Functional Specifications attached as Exhibit B.

**B.** Provider offers automated notification services via voice calls, emails and SMS text messages to organizations.

NOW, THEREFORE, the parties agree as follows:

#### **1. GENERAL**

Client may access Provider’s system and use the online services that Provider makes available through that system (“Service”), and use the software optionally provided to connect to the Service (“Software”), under the following terms and conditions.

#### **2. ACCESS AND LICENSE**

(a) **Access.** Provider hereby grants Client access to its system and the right to use the Service subject to the terms of this Agreement.

(b) **License.** Provider hereby grants Client a non-exclusive, nontransferable license to login and use its hosted Web-based service. In addition, Provider grants Client a non-exclusive, nontransferable license to install and use the associated optional Windows Software, in executable form only, for the purpose of automatically delivering information from Client’s databases to Provider’s system for Client’s use of the Service. Client may install and use the Software on any compatible computer under Client’s control and copy the Software for back-up or archival purposes provided that all such copies contain the copyright notice and other proprietary markings found on the original copy of the Software. Client may not (1) modify or otherwise create derivative works, (2) translate, reverse engineer or reverse compile, or disassemble the Software, or (3) sell, rent, sublicense, assign, distribute, or otherwise transfer the Software or this license.

### 3. **CHARGES AND PAYMENT**

(a) Provider will charge Client an annual service fee for the Service plus any applicable sales, use, value-added, personal property, or other governmental tax imposed on the Service. The price and terms for the Service are described in Exhibit A.

### 4. **PROPRIETARY RIGHTS**

(a) **Software.** The Software and any accompanying documentation and written materials are the sole and exclusive property of Provider or its licensor and are protected by copyright and trade secret law and international treaties.

(b) **Content.** Client acknowledge that the Service contains communications information, software, photos, video, graphics, sound, music, and/or other material (“Content”) that are protected by copyright, trademark, trade secret, and other intellectual property law and that the rights in such Content are valid and protected in all forms, media, and technologies that now exist or that may be developed in the future. Client may not modify, publish, distribute, transmit, transfer, sell, create derivative works from, or in any way exploit any of the Content that Client obtains from the Service, in whole or in part. If no specific restrictions are displayed, Client may make copies of portions of the Content, including material protected by copyright, trademark, or other proprietary rights, provided the copies are made only for Client’s use and that Client maintains any copyright, trademark, or other proprietary rights notices on the copies of the Content. Except as stated immediately above or as permitted by the fair use provision of U.S. copyright law, Client may not upload, post, reproduce, or distribute any Content protected by copyright or other proprietary rights without the permission of the copyright owner.

(c) **Trademarks.** *BrightArrow Technologies* and the BrightArrow logo are the registered service marks of Provider. The right to access and use the Service and Software do not include any right to use the service marks of Provider.

### 5. **TERMINATION**

(a) **At End Of Initial Term or Renewal Term.** Client may terminate this Agreement for any reason to take effect at the end of the Initial Term or Renewal Term as defined in Exhibit A. Such termination must be provided in writing within the time constraints defined in Exhibit A, and shall be effective upon the completion of the current Term.

(b) **For Cause.** Provider or Client may terminate this Agreement without notice for any conduct that violates this Agreement.

(c) **Effect of Termination.** Upon termination, Client’s license to use the Software automatically terminates, and Provider will delete all data, files, or other information stored in Client’s account. Annual service fees and any prepaid charges will not be refunded or prorated.

**6. GENERAL**

(a) **Choice of Law.** This Agreement and its validity, construction, and performance shall be governed in all respects by the laws of the State of Washington, without regard to its choice of law rules.

(b) **No Waiver.** Provider's failure to insist upon strict performance of any of the provisions of this Agreement shall in no way constitute a waiver of future violations of the same or any other provision.

(c) **Severability.** If any provision or portion of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remainder of this Agreement shall not in any way be affected or impaired thereby.

(d) **All Amendments in Writing.** No provisions in either party's purchase orders, or in any other business forms employed by either party, will supersede the terms and conditions of this Agreement, and no supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement.

(e) **Entire Agreement.** The parties have read this Agreement and agree to be bound by its terms, and further agree that it constitutes the complete and entire agreement of the parties and supersedes all previous communications, oral or written, between them relating to the license and to the subject matter hereof. No representations or statements of any kind made by either party that are not expressly stated herein shall be binding on such party.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date specified above.

CLIENT:

PROVIDER:

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: Jeff Hassman/Board President

Its: \_\_\_\_\_

Date: 07/10/2023

Date: \_\_\_\_\_

## **EXHIBIT A**

### **LICENSING, PRICES AND PAYMENT TERMS**

#### **I. Licensing.**

- Provider grants Client a license to use BrightArrow's hosted Web-based system, extending from the Initial Term start date for three years, with extensions as defined below..
- Client may use the service to deliver the messages in the form of voice telephone calls, SMS text messages, and email messages to any number of phone numbers and email addresses associated with up to 6,936 different students, staff and faculty, adjusted as necessary for subsequent years.
- The prices below are in US dollars.

#### **II. Initial Term.**

The initial term of this Agreement is three years and will begin on: July 1, 2023.

The number of students and faculty/staff to be licensed for Year 1 is: 6,936.

The pricing for Year 1 is \$1.25 per student and faculty/staff, payable Net 30 from the date of the initial term.

The pricing for Year 2 is \$1.30 per student and faculty/staff, payable Net 30 from the start of Year 2.

The pricing for Year 3 is \$1.35 per student and faculty/staff, payable Net 30 from the start of Year 3.

All paid fees are non-refundable.

- Client can increase the number of student or staff licenses mid-year by faxing or emailing a purchase order to encompass the additional licensers required. The incremental cost is \$1.35 per student and faculty/staff, with a minimum order of \$100.

### **III. Renewal Terms.**

- Unless terminated, this Agreement automatically renews on an annual basis, starting on the third anniversary of Initial Term date. The price for a one year renewal is \$1.35 per students and faculty staff.
- Client may terminate this Agreement by giving Provider at least 60-days written notice before the upcoming renewal date.
- If the per-recipient price for the next annual renewal period will be different, Provider must communicate the new price in writing at least 90-days before the renewal date, otherwise the same price and terms apply for the renewal period.

### **IV. Prior Agreement.**

- Any prepaid prior subscription will proceed under its terms until this the initial term of this Agreement begins.

**EXHIBIT B**  
**FUNCTIONAL SPECIFICATIONS**

Provider offers a hosted Web-based and app-based mass notification system for automatically delivering voice, email and SMS text messages to pre-determined lists of message recipients. Provider will also deliver a software component in the form of PowerSchool plugins, with the additional feature of receiving data automatically from the PowerSchool interface.

The system allows Client to create an unlimited number of lists containing notification recipients and their contact information. The number of different notification recipients is limited by the number of the licenses described in Exhibit A.

The system allow transmission of messages under the following constraints: (1) voice recordings (or rendered text-to-speech equivalents) will not exceed 120 seconds in length, (2) SMS text messages will not exceed 160 characters in length, although in the U.S. the system provides for delivering longer messages by automatically including a link at the end of the text message.

Details of the service and software functionality are included in the current product brochure. Although the service may change in functionality from time to time, at which time the description in the attached brochure may no longer entirely apply, any such changes will be made to supplement or improve the service and functionality, at the sole discretion of the Provider.