



## **Master Agreement**

This Master Agreement, defined herein, is made this 1st day of July, 2015 ("Effective Date") between **The School Board Of Broward County, Florida**, ("SBBC") with an address of 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301 and **Wazzle, LLC**, ("Service Provider") which agree to the terms of this Master Agreement and, agreeing to be bound by law, agree as follows:

1. **Orders.** This Master Agreement is comprised of any order or purchase order entered into pursuant to this Master Agreement along with any and all attachments to such orders and ancillary documentation (collectively the "Master Agreement") which form the complete agreement for each transaction between the Service Provider and SBBC. This Master Agreement may include the use of software which is either useable by the SBBC as provided herein or hosted by the Service Provider ("Products"), services ("Services") and other deliverables, all to the extent expressly listed in an **EXHIBIT A**. Products or Services described in an **EXHIBIT A** include any documentation accompanying the applicable Products or Services ("Documentation"). This Master Agreement is not effective until signed by both parties.
2. **Products and Services.**
  - a. **Products.** Products will include software delivered to the SBBC by the Service Provider or hosted by the Service Provider and made available to the SBBC and/or its teachers, administrators, enrolled students and/or parents ("Users") as a service. The SBBC will have a limited license as detailed herein for the use of the software. The Service Provider grants a non-exclusive, non-assignable, non-transferable license to use the Products for internal purposes only in the ordinary course of the SBBC's business and otherwise in the manner identified in the associated **EXHIBIT A**. The term of the license grant for a Product distributed to the SBBC will be set forth in the **EXHIBIT A**. Each license grant is only for the specific school district in which the SBBC is located unless otherwise identified in **EXHIBIT A**. The Service Provider grants the SBBC the right to use the Products, consistent with their accompanying Documentation, solely for SBBC's own internal business purposes. Documentation is licensed solely for use with the applicable Products or Services for the SBBC's internal business purposes. Absent the SBBC's earlier written acceptance, Products are accepted upon the earlier of:
    - i. use of the Products; or
    - ii. thirty (30) days after the Product has been delivered or made available to the SBBC following the execution of this Master Agreement.
  - b. **Services.** Services, such as hosting Products for the SBBC's use, consulting, implementation, conversion, configuration and training, may be provided to the SBBC under the terms of a Statement of Work attached to this Master Agreement ("Statement of Work"). The Statement of Work will describe the scope, timing, assumptions and specific responsibilities of the parties. If Services result in the delivery of coding changes to the source code for the benefit of the SBBC ("Custom Programming") SBBC is granted a limited license to such customization consistent with its license to the underlying Product unless otherwise set forth in the Statement of Work.
3. **Support.** The Service Provider will provide the operational support and Product maintenance ("Support") specified in the Support Services Schedule in **EXHIBIT A**. Support will commence upon acceptance of the Products.
4. **Compensation.**

- a. **Fees.** The SBBC will pay the applicable fees according to the schedule described in **EXHIBIT A**, and for labor and materials expended for Services or Support requests that are, in Service Provider's reasonable discretion, outside the Service Provider's responsibility as set forth herein, and out-of-pocket costs related to all the foregoing including shipping and reasonable travel and living expenses.
- b. **Invoices.** SBBC will pay invoices within thirty (30) days after receipt or as stated in **EXHIBIT A** without deduction, withholding or offset. The Service Provider may suspend the provision of Support and Services immediately upon notice until payments are brought current.
- c. **Interest.** Amounts not paid when due are subject to finance charges of one and one-half percent (1.5%) per month or the highest rate permitted by law, whichever is less, compounded monthly from the due date until paid. Payment of finance charges does not excuse or cure late payment. Payments received are first applied to finance charges.
- d. **Price Changes.** Except as otherwise indicated in EXHIBIT A, the Service Provider may change Support fees and other periodic fees from time to time, effective upon commencement of the next applicable period, by giving the SBBC no less than thirty (30) days' notice prior to the end of the then-current term for such Services. Notwithstanding the foregoing, the Service Provider may change its prices on third-party products or services it resells or sub-licenses upon reasonable notice to the SBBC.
- e. **Audit.** The Service Provider and its designated agents shall have the right to enter and inspect the SBBC's records and/or its computer system for the purpose of auditing the SBBC's usage of the Products and ensuring accurate invoicing. Access will be permitted with reasonable notice during the SBBC's normal business hours and in accordance with the SBBC's reasonable security procedures.

5. **Term; Termination.**

- a. **Term.** The Term of this Master Agreement is detailed in EXHIBIT A. This Master Agreement commences upon the Effective Date and continues until termination or expiration. The Term of this agreement may be extended by mutual agreement for two additional one-year periods and if needed 180 days beyond the expiration date of the final renewal period.
- b. **Termination With Notice.** This Agreement may be terminated with or without cause by SBBC during the term hereof upon no less than one-hundred-eighty (180) days written Notice to the other party of its decision to terminate this Agreement. Such termination shall be effective at the end of the Client's fiscal year (June 30<sup>th</sup>) which is at least 180 days from the Notice given.
- c. **Effect of Termination or Expiration.** At the termination or expiration the Term, no further performance by the Service Provider is required and the Client will:
  - i. immediately stop using the Products and promptly remove all Service Provider software from any hardware on which it is installed; and
  - ii. at the Service Provider's option, within twenty (20) days of termination return to the Service Provider or destroy all copies of any Products and Documentation in the Client's possession or control and certify their return or destruction. Termination does not relieve the Client of payment obligations arising prior to the effective date of termination.

6. **Proprietary Rights.**

- a. **Proprietary Rights.** As between the Service Provider and the SBBC, the Products, Services (including any associated work product), and Documentation are protected by copyright, trade secret and other proprietary rights of the Service Provider and its suppliers and will remain the sole and exclusive property of the Service Provider. The Products, Custom Programming and Documentation are licensed, not sold to the SBBC. The right to use Documentation is contingent upon the right to use the applicable Products or Services. The Service Provider reserves all rights in the Products, Services, Custom Programming and Documentation not expressly granted to the SBBC. All materials,

including but not limited to any software (in object code and source code form), data, intellectual property, or information developed or provided by the Service Provider or its suppliers under this Master Agreement, and any know-how, methodologies, equipment and processes used by the Service Provider to provide the Products, Services and Documentation to the SBBC, including, without limitation, all copyrights, trademarks, patents, trade secrets and any improvements, modifications and other proprietary rights associated with the foregoing ("Service Provider Materials") will remain the sole and exclusive property of the Service Provider or its suppliers. To the extent, if any, that ownership of the Service Provider materials does not automatically vest in the Service Provider by virtue of this Master Agreement or otherwise, the SBBC transfers and assigns to the Service Provider all rights, title and interest which the SBBC may have in and to the Service Provider Materials.

- i. SBBC makes no claim of ownership of the Service Provider Materials in any manner or form. SBBC makes no claim of any right to utilize the Service Provider Materials outside of or inconsistent with the limited grants given to SBBC in this Master Agreement by Service Provider.
  - ii. Should SBBC gain any ownership interest or property right in any Service Provider Materials, SBBC will cooperate with Service Provider to transfer, assign, or restore any and all such rights exclusively to the Service Provider.
  - iii. Should SBBC attempt to appropriate, reverse engineer, modify, transfer, sell, sublicense, or alter the Products in any way, Service Provider shall, in addition to any other remedies available at law or equity, make a claim for injunctive relief which may be brought in the state or federal courts and which shall include reasonable counsel fees.
- b. **Limitations on Use.** Unless otherwise stated in this Master Agreement, SBBC will not:
- i. reproduce the Products, Service Provider Materials or Documentation;
  - ii. market, license, distribute, sub-license or otherwise commercially exploit the Products, Services, Service Provider Materials or Documentation or sell, lend, rent, give, assign or otherwise transfer the Products, Services, Service Provider Materials or Documentation;
  - iii. permit the use of the Products, Services, Service Provider Materials or Documentation by others or otherwise operate the Products for third parties;
  - iv. modify or translate the Products, Service Provider Materials or Documentation into any other computer or human language;
  - v. alter the Products, Service Provider Materials or Documentation in any way; or
  - vi. disassemble, reverse engineer or decompile the Products or Service Provider Materials or otherwise attempt to discover any portion of the object or source code or trade secrets related to the Products, Service Provider software or Service Provider Materials.
- c. **Student Data.** Neither party will share any student information with outside third parties in violation of FERPA nor violate §§ 1002.22 and 1002.221 of the Florida Statutes; FERPA, and or any other state or federal law or regulation regarding the confidentiality of student information and records and will comply with the requirements of **Exhibit B**. For purposes of the SBBC meeting its obligations under the Privacy Laws the Service Provider and the SBBC will each employ reasonable protections to prevent unauthorized access to personally identifiable student information in the Service Provider's control. Neither party will disclose personally-identifiable information from education records to third parties without the prior consent of the parent or student, will use such information only for activities related to this Master Agreement, and will delete or destroy such information following termination of this Master Agreement or earlier if requested by the SBBC. The Service Provider may retain and use anonymous demographic and statistical data and information (not individually identifiable) it collects pursuant to this Master Agreement to improve its Products or for any other purpose, but will comply with all applicable laws and regulations.
- d. **Content.** SBBC represents and warrants that all materials posted by the SBBC within the Products or provided to the Service Provider for the SBBC's use with the Products, including but not limited to materials owned by third parties ("Content"), is either owned by

the SBBC, or the SBBC has all rights required for the Service Provider to use such Content in the manner intended pursuant to this Master Agreement. No ownership interest in Content shall be transferred to the Service Provider, and the Service Provider will not use such Content other than as contemplated by this Master Agreement. The SBBC is solely responsible for verifying its right to use such Content with the Products. The SBBC agrees to indemnify, defend and hold the Service Provider harmless from any claims, causes of action, costs (including, without limitation, reasonable attorneys' fees) and any other liabilities of any nature related to Content used or provided by the SBBC. Nothing herein shall be construed as a waiver by SBBC of any rights or limits to liability existing under section 768.28, Florida Statute.

- e. **Legends and Notices.** Each party agrees to maintain all proprietary legends and notices on all tangible and electronic copies of Confidential Information, Content, Products and Documentation, and particularly those legends and notices concerning trademarks, copyrights, ownership and restricted usage.

## 7. Confidentiality/Privacy.

- a. Both parties may acquire certain information that is confidential, proprietary or trade secret information of the other party or a third party ("Confidential Information") in the performance of the Master Agreement, or in the contemplation of the license to or purchase of additional Products, Services or other deliverables. The Service Provider acknowledges that the SBBC's Confidential Information includes any personally identifiable information of Users. The SBBC acknowledges that the Service Provider's Confidential Information includes all source code, software, Services, Documentation, Service Provider Materials and any related system design, database design, algorithms, trade secrets, technology, pricing and licensing. Other Confidential Information of either party shall be clearly identified in writing as Confidential at the time of disclosure or promptly thereafter. The party receiving Confidential Information will:
  - i. use such information solely for performance under this Master Agreement;
  - ii. not disclose such information to any third party (excluding agents which are not competitors of the disclosing party, in accordance with this Section 3, and, in the case of the Service Provider, its affiliated companies); and
  - iii. otherwise protect such information from any unauthorized use or disclosure.
- b. The receiving party shall see that its employees, agents and affiliates having access to Confidential Information are bound by confidentiality obligations consistent with this provision, and the receiving party shall be responsible for breaches of this Master Agreement by such employees, agents and affiliates. Nevertheless, neither party will be obligated to keep confidential any information that is:
  - i. publicly available through no fault of the receiving party;
  - ii. received by the receiving party from a third party who is not under a confidentiality obligation regarding the information;
  - iii. independently developed by the receiving party without referring to the Confidential Information; or
  - iv. required by applicable law to be disclosed by the receiving party, provided the receiving party shall, to the extent reasonably practicable, give prompt notice to the disclosing party and assist and support the disclosing party's efforts to maintain the confidentiality of the information, including, but not limited to, securing protective orders and limited to securing protective orders and limiting the information disclosed.
- c. The SBBC may be required to make certain information available pursuant to state public records laws. Compliance with any such laws will not constitute a breach of this Master Agreement, provided that the SBBC informs the Service Provider if and when it receives requests that could reasonably require disclosure of the Service Provider's Confidential Information and provides the Service Provider a copy of any such information disclosed. The Service Provider and its affiliates may identify the SBBC as a SBBC and use the SBBC's logos in connection with publicized SBBC lists, advertising and other promotional and marketing materials, including placing references to the SBBC on the

Service Provider's website, provided that the Service Provider complies with any reasonable written trademark usage guidelines furnished by the SBBC.

8. **Representations.**

- a. **Service Provider Representations.** The Service Provider represents and warrants to the SBBC that:
  - i. it has the requisite right, power and authority to enter into and perform this Master Agreement; and
  - ii. the execution, delivery and performance of this Master Agreement will not
    - A. result in the breach of, constitute a default under, or interfere with any contract or other instrument or obligation, written or oral, to which it is currently bound, or
    - B. violate or contravene any writ, order, injunction, decree or any law, statute, rule or regulation applicable to the Service Provider or the transactions contemplated by this Master Agreement.
- b. **SBBC Representations.** The SBBC represents and warrants to the Service Provider that:
  - i. it has the requisite right, power and authority to enter into and perform this Master Agreement; and
  - ii. the execution, delivery and performance of this Master Agreement will not
    - A. result in the breach of, constitute a default under, or interfere with any contract or other instrument or obligation, written or oral, to which it is currently bound, or
    - B. violate or contravene any writ, order, injunction, decree or any law, statute, rule or regulation applicable to the SBBC or the transactions contemplated by this Master Agreement.

9. **Warranty.**

- a. **Product Warranty.** The Service Provider does not warrant that Products are free from all bugs, errors, or omissions or that the Product will function with or be compatible with all types of programming. For a period of thirty (30) days after the Product has been initially delivered or made available to the SBBC (the "Warranty Period"), the Service Provider warrants that the Product will function in all material respects consistent with its specifications appearing in the applicable Documentation.
- b. **Support Warranty.** For so long as Support is purchased by the SBBC, the Service Provider warrants that Support will be provided in a professional and workmanlike manner, and that updates and new releases to the Product, if and when provided by the Service Provider to the SBBC, will function in all material respects consistent with specifications appearing in the applicable Documentation.
- c. **Services Warranty.** The Service Provider warrants that Services will be provided in a professional and workmanlike manner consistent with the definition of the Services to be performed.
- d. **Warranty Exclusions.** The warranties in this Section do not extend to any failure of the Products or Services caused by: (a) any noncompliance caused by, including without limitation use of the Product in combination with, products, goods, services or other items furnished by anyone other than the Service Provider; (b) use of the Product in an operating environment other than as specified by the Service Provider; or (c) use of the Products or Services not in accordance with the Documentation. The Service Provider shall not be responsible for damages of any kind caused, directly or indirectly, by any of the foregoing.
- e. **Exclusive Remedies.** In the event of a breach of warranty provided herein, the SBBC must notify the Service Provider and provide a detailed description of the failure during the applicable Warranty Period for the SBBC to have a remedy for such breach. In addition, for claims of warranty breach related to Products, the SBBC must provide the Service Provider with all reasonably requested assistance to assist the Service Provider in reproducing the failure, and the Service Provider must be able to reproduce the noncompliance at its facility for the SBBC to have a remedy for such breach. The Service Provider will use reasonable efforts to correct any Product, Support or Service that fails to

comply with the foregoing warranty by re-performing the Service, or delivering one or more error corrections consisting of workaround instructions, updates, revisions or patches to the Product and/or revisions or supplements to the Documentation. Should the failure be incapable of resolution following the expenditure of reasonable efforts: (a) in the case of Product Warranty claims, the SBBC may terminate the Master Agreement with respect to such Product and receive a refund of any pre-paid and unused fees received by the Service Provider for the Product, (b) in the case of Support Warranty claims, the SBBC may terminate Support for the Product and the Service Provider will refund a pro-rata portion of prepaid Support Fees for the period between termination and the end of the prepaid period, (c) in the case of Services Warranty claims, the Service Provider will refund a reasonable portion of the fees paid with respect to such Services. The foregoing remedies are the Service Provider's sole responsibility and the SBBC's sole and exclusive remedies in the event of a warranty breach. THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION AND IN ANY APPLICABLE COMPLIANCE WARRANTY ARE EXCLUSIVE AND ARE IN SUBSTITUTION FOR ALL OTHER WARRANTIES AND REMEDIES, EXPRESS OR IMPLIED, WHETHER ARISING BY STATUTE, COURSE OF DEALING OR PERFORMANCE, CUSTOM, USAGE IN THE TRADE OR PROFESSION OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF SATISFACTORY QUALITY, MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

- f. **Computer Viruses.** The Service Provider uses commercially available virus detection programs to detect computer viruses or other disabling devices within Products ("Viruses"). The SBBC acknowledges that not all Viruses may be detected and it is the SBBC's responsibility to monitor and scan all computer programs and data that become part of the SBBC's computing environment. If Viruses are detected in the Product when delivered or made available to the SBBC by the Service Provider, as the SBBC's sole and exclusive remedy and the Service Provider's sole responsibility, the Service Provider will replace the affected Product with a copy the Service Provider reasonably believes to be uninfected with Viruses.
- g. **Third-Party Products.** Some Products and Services may include or operate in conjunction with computer programs, data or hardware supplied by a third party. Other than third-party programs or data that are embedded in, and delivered as, an inseparable part of the Product, all third-party computer programs, data and hardware ("Independent Third-Party Products") are supplied "AS IS" by the Service Provider. If Independent Third-Party Products are supplied with separate warranty and support terms which can be passed through to the SBBC, the third party that supplies such programs and data is responsible for fulfilling such warranty and support terms, and the Service Provider makes no warranty and assumes no obligation with respect to such items. FOR THE AVOIDANCE OF DOUBT, THE SERVICE PROVIDER HEREBY DISCLAIMS ANY AND ALL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, DAMAGES RELATING TO DATA LOSS, DATA INTERRUPTION, VIRUSES AND WARRANTY BREACHES, RELATING TO INDEPENDENT THIRD-PARTY PRODUCTS.

10. **Limitations of Liability.**

- a. THE SERVICE PROVIDER'S ENTIRE LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, STRICT LIABILITY, INDEMNIFICATION RESPONSIBILITY, OR OTHER LEGAL OR EQUITABLE THEORY, FOR ANY CLAIM ARISING FROM OR RELATED TO THIS MASTER AGREEMENT OR ANY PRODUCT, DOCUMENTATION, SUPPORT, SERVICES OR OTHER ITEMS FURNISHED OR TO BE FURNISHED UNDER THIS AGREEMENT WILL IN NO EVENT EXCEED THE FEES PAID TO THE SERVICE PROVIDER BY THE SBBC FOR SUCH ITEM DURING THE NINE (9) MONTH PERIOD IMMEDIATELY PRECEDING THE OCCURRENCE OF THE EARLIEST EVENT GIVING RISE TO THE CAUSE OF ACTION NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THIS LIMITATION IS CUMULATIVE, SUCH THAT ANY AND ALL PAYMENTS MADE IN SATISFACTION OF CLAIMS DECREASE THE LIMITATION AND THE

EXISTENCE OF MORE THAN ONE CLAIM WILL NOT INCREASE THE LIMITATION. NO ACTION RELATED TO THIS AGREEMENT MAY BE BROUGHT MORE THAN TWO (2) YEARS AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO THE CAUSE OF ACTION.

- b. IN NO EVENT WILL THE SERVICE PROVIDER BE LIABLE TO SBBC OR TO ANY OTHER PERSON OR ENTITY FOR LOST DATA, LOST PROFITS, INTEREST OR COST OF MONEY; OR FOR COVER; OR FOR ANY PUNITIVE, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS MASTER AGREEMENT.

**11. Service Provider's Duties Regarding Content.**

- a. The Service Provider will defend the SBBC against any claim or proceeding alleging that a Product, used within the scope of this Master Agreement and excluding any Independent Third-Party Products and Content, infringes any U.S. patent or copyright, or misappropriates any trade secret, provided that the SBBC notifies the Service Provider of such proceeding promptly after the SBBC receives notice thereof, the Service Provider has exclusive control over the defense and settlement of the proceeding, the SBBC provides such assistance in the defense and settlement of the proceeding as the Service Provider may reasonably request, and the SBBC complies with any settlement or court order made in connection with such proceeding (e.g., as to the future use of any infringing Product).
- b. The Service Provider will:
  - i. indemnify the SBBC against damages and costs, including attorneys' fees, finally awarded against the SBBC in any such proceeding or, if the action is settled, pay any amounts agreed by the Service Provider in settlement of such covered claims, and
  - ii. reimburse the expenses the SBBC reasonably incurs at the request of the Service Provider in providing assistance.
- c. The Service Provider's obligations under this Section will not apply to any infringement to the extent arising out of
  - i. any use or combination of the Product with any other products, goods, services or other items furnished by anyone other than the Service Provider;
  - ii. any modification or change not made by the Service Provider or a modification or change made in accordance with the SBBC's specifications or instructions;
  - iii. the use of an infringing version of the Product when a comparable non-infringing version has been made available to the SBBC; or
  - iv. any software developed to specifications which the SBBC has supplied or required of the Service Provider (collectively, "Excluded Claims"). The SBBC will indemnify the Service Provider against and defend all suits and pay all damages and costs incurred by the Service Provider arising out of any such Excluded Claims.
- d. In the event that the Service Provider reasonably believes it will be required to discontinue use of the Product, the Service Provider has the following options:
  - i. In the event that the Service Provider reasonably believes it will be required to discontinue use of the Product, the Service Provider will, at its option, either
    - A. obtain for the SBBC the right to continue use of the Product, or
    - B. modify the Product to make it non-infringing.
  - ii. If the Service Provider is not reasonably able to accomplish the foregoing, the Service Provider may terminate the license of the infringing Product and refund the SBBC a pro-rata portion of any prepaid Service fees, Support fees, and/or license fees the SBBC paid for such Product (in the case of license fees, amortized on a three (3) year straight line basis from the date of Product installation).
- e. THIS SECTION STATES THE ENTIRE LIABILITY OF THE SERVICE PROVIDER WITH RESPECT TO INFRINGEMENT BY ANY SERVICE PROVIDER PRODUCT OR RESULTING FROM THE PERFORMANCE OF SERVICES BY THE SERVICE PROVIDER.



12. **SBBC's Duties Regarding Content.** SBBC agrees to indemnify, defend, and hold Service Provider and its subsidiaries, affiliates, officers, agents, employees, partners and licensors harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of
- a. content submitted, posted, transmitted, or otherwise made available via the Product by SBBC or any subsidiary, affiliate, officer, agent, employee, partner, contractor, or user of the Product which Service Provider supplied to SBBC, or
  - b. the violation of any rights of another by SBBC or any, officer, or agent, employee, of SBBC.

13. **Miscellaneous.**

- a. **No Waiver.** The failure of either party to enforce any rights under this Master Agreement or to take action against the other party in the event of a breach will not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.
- b. **Assignment.** This Master Agreement may not be assigned or transferred (e.g., change of control) in any way by the SBBC without the prior written consent of the Service Provider. ANY ASSIGNMENT OF THIS MASTER AGREEMENT WITHOUT THE EXPRESS WRITTEN CONSENT OF SERVICE PROVIDER ARE VOID. Any consent will require that the SBBC and/or its successor immediately bring all accounts current and make all adjusting payments, if any, required by any licenses and may impose an obligation on the SBBC to pay an administrative fee to the Service Provider for effectuating such assignment. Without limiting the foregoing, this Master Agreement will be fully binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.
- c. **Excused Delays.** To the extent that a delay or failure to perform results from causes beyond the reasonable control of the affected party, that party will be excused and not liable for such delay or failure. If the Service Provider experiences any delays in the delivery of the Software or Services which result from the SBBC's failure to meet the SBBC's obligations described in the Master Agreement, the SBBC will reimburse the Service Provider for any reasonable additional costs the Service Provider incurs as a result of such delays.
- d. **No Export.** The SBBC shall not export, directly or indirectly, the Software or Documentation outside the United States without prior written approval from the Service Provider. If approved, the SBBC will comply with the export laws and regulations of the U.S.
- e. **Survival.** Sections 4, 5, 7, 9, 10 and 14, together with all other provisions of this Master Agreement which may reasonably be interpreted or construed as surviving the termination or expiration of this Master Agreement, will survive the termination or expiration of this Master Agreement.
- f. **Independent Contractor.** In the performance of this Master Agreement, the Service Provider will at all times be the SBBC's independent contractor, and not the SBBC's partner or joint venturer. The Service Provider and not the SBBC will be responsible for any payments to or on behalf of any Service Provider employees including without limitation, any wages, workers' compensation insurance or unemployment insurance.
- g. **Notices.** Any notice or other communication under this Master Agreement given by either party to the other will be in writing and delivered in person, by first-class mail, or a nationally recognized courier service, postage prepaid. Notices will be deemed received only upon receipt. Notices will be directed to the intended recipient at the address then used for the SBBC invoices and the Service Provider office address issuing the invoice.

IF to SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

If to Wazzle: Wazzle Solutions



239 South Cochran Avenue  
Charlotte, Michigan 48813

With a copy to: John A. Renda  
Attorney at Law  
900 Parish Street  
Pittsburgh, PA 15220

- h. **Fees.** The parties shall be responsible for their own attorney's fees. However, any party which files its claim or dispute before any other court, board, body or trier-of-fact other than the American Arbitration Association shall be immediately liable for the court costs, expert fees, and reasonable attorney's fees expended by the other party through the point which a final ruling is made on such claim or dispute. The sole exception to this paragraph shall be an equitable claim for injunctive relief for matters related to data security, intellectual property, or unauthorized access to the Products or Service which may be brought in the state or federal courts.
- i. **No Third-Party Beneficiaries.** This Master Agreement does not create any third-party beneficiaries nor is it intended to. The parties to this Master Agreement do not intend and shall not claim that any third-party beneficiary has been created. This Master Agreement does not and is not intended to confer any rights or remedies upon any User, or any person or entity other than the SBBC and the Service Provider.
- j. **Background Screening.** To the extent such statutes are applicable to Service Provider employees, Service Provider shall comply with §§ 1012.32 and 1012.465 of the Florida Statutes regarding background screening.
- k. **§ 768.28 of the Florida Statutes.** To the extent that Section 768.28 of the Florida Statutes applies as written, such limitations shall be applied herein where applicable. Nothing in this paragraph or this contract intends to broaden or expand the applicability or protections of § 768.28 beyond those protections provided by the statute as written.
- l. **Annual Appropriation.** If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. SBBC shall pursue funding for this Master Agreement in good faith during the Term.
- m. **Florida's §119.0701 Regarding Public Records.** To the extent §119.0701 of the Florida Statutes shall apply to Service Provider, Service Provider shall (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and destroy any duplicate public records so that no individual can be identified through such records.
- n. **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.
- o. **Entire Master Agreement.** This Master Agreement as defined in Paragraph 1 is the complete and exclusive agreement between the SBBC and the Service Provider and supersedes any and all prior representations, warranties, promises, proposals, statements, or agreements of any kind and type whether oral or written. No modification of any of the provisions of this Master Agreement will be valid unless set forth in a written instrument signed by both parties. This Master Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
- p. **Force Majeure.**

- i. **Definition of Force Majeure.** "Force Majeure" means an event beyond the control of the Service Provider or the SBBC, which prevents a party to this Master Agreement from complying with any of its obligations hereunder including but not limited to:
  - A. natural acts of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods);
  - B. war, hostilities (whether war be declared or not), invasion, rebellion, act of foreign enemies, acts or threats of terrorism, or embargo;
  - C. riot, strikes, or a failure of suppliers to supply necessary product or property;
  - D. man-made disasters such as contaminations, explosions, or other hazardous situations.
- ii. **Consequences of Force Majeure Event.** Neither the Service Provider nor the SBBC shall be considered in breach of this Master Agreement to the extent that performance of their respective obligations (excluding payment obligations) is prevented by Force Majeure event that arises after the Effective Date. The Party (the "Affected Party") prevented from carrying out its obligations hereunder shall give written notice to the other Party of a Force Majeure event upon it being known to the Affected Party. To the extent a party is prevented from performing its duties hereunder due to a Force Majeure event, while the party is so prevented the party shall be relieved of its obligations hereunder but shall endeavor to continue to perform its obligations hereunder so far as reasonably practicable.
- iii. **Optional Termination.** Regardless of any extension of time, if a Force Majeure event occurs and its effect continues for a period of 180 days (or is certain to continue for a period of 180 days), either party may give to the other a notice of termination.

14. Insurance Specifications:

**GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

**WORKERS COMPENSATION:** Employers Liability Limits not less than \$100,000 Each Accident, \$100,000 Disease – Each Employee, \$500,000 Disease – Policy Limit.

**AUTO LIABILITY:** Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits not less than \$1,000,000 Combined Single Limit.

**Technology Errors and Omissions Liability:** Limits not less than \$1,000,000 per occurrence; \$1,000,000 Aggregate.

All insurance companies providing policies required under this contract shall have at least an "A-" rating and a financial rating not less than VI in the current A.M. Best Manual or hold a Moody's Investors Service Financial Strength of "Aa3" or better.

**VERIFICATION OF COVERAGE:** proof of the required insurance must be furnished by Wazzle to SBBC Risk Management Department by Certificate of Insurance within 15 days of notification of award. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit Awardee time to remedy any deficiencies. FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.

**REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:

The School Board of Broward County, Florida is added as additional insured. All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida, exclusively for the services provided by Wazzle. (Please include the Contract No. and Title on the Certificate of Insurance.)

(Certificate Holder: School Board of Broward County, 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301).

**CANCELLATION OF INSURANCE:** Certificates of Insurance shall include a minimum of 30 day written notice to The School Board of Broward County, Florida of any material change in coverage, expiration, or cancellation.

WE HAVE READ AND UNDERSTAND THIS AGREEMENT. WE SIGN BELOW INTENDING TO BE LEGALLY BOUND.


FOR SBBC

(Corporate Seal)

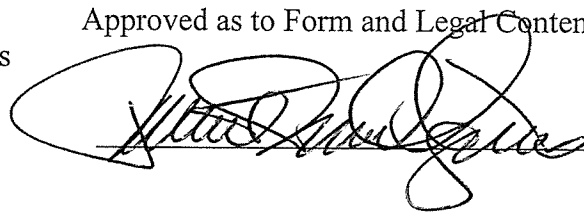
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ATTEST:

By   
Donna P. Korn, Chair

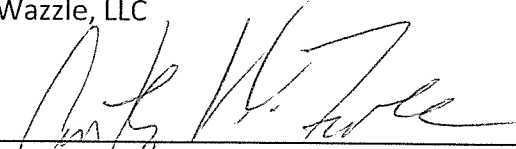
  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

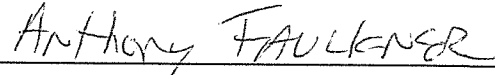
 06/15/15

Wazzle, LLC (SERVICE PROVIDER)

Wazzle, LLC

  
\_\_\_\_\_  
Anthony Faulkner  
President

Witness:

  
\_\_\_\_\_  
Print Name:

STATE OF MICHIGAN

COUNTY OF Eaton

The foregoing instrument was acknowledged before me this 8 day of June, 2015 by Anthony Faulkner on behalf of Wazzle, LLC. Mr. Faulkner is personally known to me or produced a valid Michigan State driver's license as identification

My Commission Expires:

  
\_\_\_\_\_  
Signature – Notary Public

(SEAL)

