

**FIRST AMENDMENT TO SOFTWARE SERVICES AGREEMENT  
BETWEEN CLASS COMPOSER AND POUDRE SCHOOL DISTRICT R-1**

This First Amendment (“Amendment”) effective March 20, 2024, is attached to and forms part of the Software Services Agreement between Poudre School District R-1 (the “District”) and Class Composer (the “Contractor”) executed April 12, 2023 (“Agreement”), hereby attached and made part of this Amendment. To the extent that any of the terms or conditions contained in this Amendment may contradict with any of the terms or conditions of the attached Agreement, it is expressly understood and agreed that the terms of this Amendment shall take precedence and supersede the attached Agreement. The parties agree to amend the Agreement by adding the following language:

1. **Purpose of Amendment.** This Amendment shall constitute the Amendment to the Agreement between the District and the Contractor. The purpose of this Amendment is to amend the terms and deliverables between the District and Contractor.
  
2. **Term of Agreement.**
  - 2.1. At the conclusion of the term dated April 30, 2024, as outlined in section 1.1 of the Agreement, the District and Contractor elect to extend the term of the Agreement beginning on May 1, 2024 through April 30, 2025.
  
3. **Amended Responsibilities.**
  - 3.1. Exhibit A is deleted hereby in its entirety.
  - 3.2. Replace Exhibit A with Contractor’s Student Data Collection, hereby attached to this First Amendment and made part of this Agreement.
  - 3.3. Exhibit B is deleted hereby in its entirety.
  - 3.4. Replace Exhibit B with Contractor’s Class Composer Pricing, hereby attached to this First Amendment and made part of this Agreement.
  - 3.5. Within section 10, delete the language which has a strikethrough and replace with the following language which is underlined:

Poudre School District R-1  
Attn: ~~Tracy Stibitz~~  
2407 LaPorte Avenue  
Fort Collins, CO 80521  
E-mail: ~~tstibitz@psdschools.org~~

Poudre School District R-1  
Attn: Contracts Administrator  
2407 LaPorte Avenue

Fort Collins, CO 80521  
E-mail: [contracts@psdschools.org](mailto:contracts@psdschools.org)

**Special Provisions.**

4.1. **Terms and Conditions.** With the exception of items explicitly delineated in this First Amendment, all terms and conditions of the original Agreement between the District and Contractor shall remain unchanged and in full force and effect.

4. **General Provisions.**

5.1. **Entire Agreement.** The original Agreement and this First Amendment constitutes the entire Agreement of the parties regarding the subject matter addressed herein and supersedes all prior Agreements, whether oral or written, pertaining to said subject matter.

5.2. **Signatures.** This Agreement may be executed and delivered via portable document format (pdf), and the pdf signature of any party shall be considered valid, binding, effective and an original for all purposes.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the District and the Contractor have signed this Amendment as of the Effective Date.

CLASS COMPOSER

POUDRE SCHOOL DISTRICT R-1

By: Mike Cronley

Name: Mike Cronley  
Title: CEO

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

R. David Montoya  
Chief Finance Officer

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

Julie Chaplain  
Assistant Superintendent

# Exhibit A



## DESCRIPTION OF SERVICES

### **Description of Services**

Class Composer is a software program to help elementary schools streamline the process to create class lists. The decision making process of where to place elementary students into classes for the next academic year is currently done at most schools using paper cards or sticky notes. Information like gender, academic level, behavior ratings, identified labels like ELL (English Language Learner), and placement requests are handwritten on a paper card for each student and then those cards are manually sorted in an attempt to create equitable classes in a grade level. This cumbersome process results in the creation of inequitable classes due to the large amount of data to consider and time constraints on educators. Since elementary students are rarely switched out of classes once the school year starts any inequity negatively impacts the teaching and learning in that classroom for the entire year. Our cloud based software program makes it easier for teachers and principals to create more equitable classes in less time.

**Price**

Yearly subscription of \$699/year/school. Annual subscription period starts upon payment.

**Data Collected Through Use of System**

| Data Collected  | General Purpose of Data Collection        |
|---|---|
| School Address  | Required to support product functionality |
| School Phone Number   | Required to support product functionality |
| School District   | Required to support product functionality |
| School Leader First & Last Name                                   | Required to support product functionality |
| School Leader Email   | Required to support product functionality |
| First & Last Name of Staff Added to Administrator Role in Program | Required to support product functionality |
| Email of Staff Added to Administrator Role in Program             | Required to support product functionality |
| First & Last Name of Staff Added to Teacher Role in Program       | Required to support product functionality |
| Email of Staff Added to Teacher Role in Program                   | Required to support product functionality |
| First & Last Name of Student                                      | Required to support product functionality |
| Gender of Student   | Required to support product functionality |
| Student Reading Level Ratings                                     | Required to support product functionality |
| Student Writing Level Ratings                                     | Required to support product functionality |
| Student Math Level Ratings  | Required to support product functionality |
| Student Behavior Level Ratings                                    | Required to support product functionality |
| Student Work Skills Ratings                                       | Required to support product functionality |
| Student Grade Level   | Required to support product functionality |

### Third Party Information

| Vendor                | URL   | Description              |
|-----------------------|---|--------------------------|
| Google Cloud Platform | <a href="https://cloud.google.com/">https://cloud.google.com/</a>   | Database and Web hosting |
| Mailjet               | <a href="https://www.mailjet.com/">https://www.mailjet.com/</a>     | Email delivery           |
| FullStory             | <a href="https://www.fullstory.com/">https://www.fullstory.com/</a> | Customer support         |

# Exhibit B



# Class Composer Pricing

Subscriptions are based on your school's current enrollment. Support, through email and scheduled video calls, and customizable trainings are included on all plans.

## Small School

Less than 350 students

✓ Includes all features

**\$599**/school

*Billed annually*

Request a Quote  
(<https://survey.alchemer.com/s3/7372626/sales>)

## Average School

350 - 750 students

✓ Includes all features

**\$799**/school

*Billed annually*

Request a Quote  
(<https://survey.alchemer.com/s3/7372626/sales>)

## Large School

More than 750 students

✓ Includes all features

**\$999**/school

*Billed annually*

Request a Quote

(<https://survey.alchemer.com/s3/7372626/sales>)

Contact Us For District Pricing (<https://survey.alchemer.com/s3/7372626/9e2f53ef0ca9>)

“Class composer has taken the stress out of sorting students into their next year grade-level classes. Prior to Class Composer, my teachers would spend a lot of time completing the traditional Pink/Blue Cards to use for sorting students. Once we subscribed to Class Composer, student information was able to be imported. This saved an incredible amount of time. Teachers were then able to input student data and the system took it from there. With the click of a button, the classes were sorted and were equitable in regards to academic performance, behaviors, etc. If we needed to make any adjustments, that was easily done as well. We plan to continue to use Class Composer for years to come. My teachers love how user-friendly it is and how much time they save.”

## Stephanie Pimentel

*Principal*

Adkison Elementary

Modesto, California

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### Contact Us

Support (<https://survey.alchemer.com/s3/7372626/support>)

Sales (<https://survey.alchemer.com/s3/7372626/sales>)

Billing (<https://survey.alchemer.com/s3/7372626/billing>)

### Resources

FAQ (<https://www.classcomposer.com/faq/>)

Learning Portal (<https://classcomposer.document360.io/>)

Pricing (<https://www.classcomposer.com/pricing/>)

Features (<https://www.classcomposer.com/features/>)

Testimonials (<https://www.classcomposer.com/testimonials/>)

Blog (<https://www.classcomposer.com/blog/>)

News (<https://www.classcomposer.com/news/>)

Request a Quote (<https://survey.alchemer.com/s3/7372626/sales>)

W-9 Form (<https://www.classcomposer.com/wp-content/uploads/2024/02/ClassComposerW92024.pdf>)

### Address

Class Composer

1023 Walnut Street

Suite 100

Boulder, Colorado 80302

Our mission is to create positive learning environments where teachers can better meet the social, emotional, and academic needs of their students.

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(<https://www.classcomposer.com/wp-content/uploads/2024/02/Privacy-Policy-Revised-Winter-2024.pdf>) . [Terms of Use \(https://www.classcomposer.com/wp-content/uploads/2024/02/Terms-Revised-Winter-2024.pdf\)](#)



**SOFTWARE SERVICES AGREEMENT  
BETWEEN CLASS COMPOSER  
AND POUFRE SCHOOL DISTRICT R-1**

This Software Services Agreement (“Agreement”) is entered into this 12th day of April 2023, by and between Poudre School District R-1 (the “District”) and Class Composer (the “Contractor”). The District and the Contractor are collectively referenced herein as the “parties.” In consideration of the mutual covenants and promises contained in this Agreement, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Term of Agreement.**

1.1. This Agreement shall commence on April 12, 2023 and continue through and including April 30, 2024.

2. **Deliverables and Purchase Price.**

The Contractor shall provide cloud-based class room creator program for use in District Schools, in accordance with the scope of work set forth in the attached Exhibit A (hereinafter the “Services”).

2.1. The total cost for all Services under this contract as set forth on the attached Exhibit B shall not exceed Eight Thousand, One Hundred and Eighty-Eight Dollars and Zero Cents (\$8,188.00), due and payable thirty (30) days from receipt of Contractor’s invoice.

2.1.1. Additional Services purchases shall not exceed the pricing outlined in Exhibit B.

2.2. Additional District schools may participate in Services under all terms and conditions specified within this Agreement, not to exceed the term within section 1.1. This Agreement in no way binds the District or District Schools to exclusive use of Contractor’s Services. Discretion to utilize Services is under the direction of each District School Principal or Principal designee. District Principals or Principal designee will adhere to applicable laws, regulations, and District policies.

2.3. Fulfillment of Services under the terms and conditions set forth in this Agreement shall be exclusively through the issuance of a District purchase order.

2.3.1. The Contractor shall provide the contact in section 10 a quote for Services conforming to the pricing, which shall be payable by the District thirty (30) days after receipt of Contractor’s invoice.

2.3.2. Site-based credit cards and/or site-based restricted checks shall not be permitted for payment.

2.3.3. Services provided by Contractor without conforming to section 2.3 of the Agreement shall be considered unauthorized and payment shall not be issued by the District.

2.3.4. Contractor shall assure compliance with the District Policy DJG/DJGA, attached as Exhibit C and hereby made part of this Agreement, direct communication with schools or sales must be approved by contact in section 10 of this agreement.

2.4. Contractor shall maintain compliance with federal, state and local laws as pertains to accessibility for persons with disabilities, including but not limited to Colorado House Bill 21-1110, for the length of the Agreement and all extensions.

2.5. **Invoicing.** Invoices for Services provided shall be submitted directly to the District's accounts payable department within thirty (30) days of completion of Services. Invoices for such Services shall include (a) date on which Services were provided, (b) the District Location for which the Service were provided, (c) details of Products delivered, (d) and if issues, a purchase order number.

2.5.1. Invoices received from the Contractor pursuant to this Agreement will be reviewed and approved by the District's representative, indicating that services have been rendered in conformity with the Agreement and then will be sent to the Finance Department for payment. Payment for Services not approved by the District in writing, shall not be considered valid and the District will not be responsible for covering associated costs. Invoices will generally be paid within thirty (30) days following the District representative's approval.

2.5.2. Invoices which do not conform with the agreement will be paid thirty (30) days from receipt of a revised and corrected invoice.

2.5.3. All invoices must be submitted within 30 days of fiscal year end June 30 and may not include items received by the District outside of the fiscal year July 1 – June 30.

2.5.4. Invoices shall be sent to ap@psdschools.org.

2.5.5. The District is exempt from federal and state taxes under Colorado Tax Exempt Number 98-03335.

2.5.6. If the contract results in the right to use an asset, the Contractor shall provide the District, if requested, documentation necessary to facilitate the District's compliance with the Governmental Accounting Standards Board ("GASB") issued GASB Statement No. 87, Leases.

2.6. The Contractor grants the District a non-exclusive, non-transferable, non-sublicenseable license to access and use, and permit authorized users to access and use the Services solely in the United States during the term of the Agreement.

2.7. The District shall access and use the Services solely for non-commercial instructional and administrative purposes within the District. Further, the District shall not, except as expressly authorized or directed by the Contractor: (a) copy, modify, translate,



distribute, disclose or create derivative works based on the contents of, or sell, the Services, or any part thereof; (b) decompile, disassemble or otherwise reverse engineer Services or otherwise use the Services to develop functionally similar products or services; (c) modify, alter or delete any of the copyright, trademark, or other proprietary notices in or on the Services; (d) rent, lease or lend the Services or use the Services for the benefit of any third party; (e) avoid, circumvent or disable any security or digital rights management device, procedure, protocol or mechanism in the Services; or (f) permit any authorized user or third party to do any of the foregoing. The District also agrees that any works created in violation of this section are derivative works, and, as such, the District agrees to assign, and hereby assigns, all right, title and interest therein to the Contractor.

2.8. The District agrees, subject to the limited rights expressly granted hereunder, that all rights, title and interest in and to all Services, including all related IP Rights, are and shall remain the sole and exclusive property of Contractor or its third-party licensors. "IP Rights" means, collectively, rights under patent, trademark, copyright and trade secret laws, and any other intellectual property or proprietary rights recognized in any country or jurisdiction worldwide. The District shall notify Contractor of any violation of Contractor's IP Rights in the Services, and shall reasonably assist Contractor as necessary to remedy any such violation. Contractor Services are protected by patents.

2.9. The District understands and agrees that its students' access to and use of the Services under this Agreement may require that it disclose confidential student records and information, as that term is defined below, to the Contractor. The Contractor understands and agrees that if it fails to comply with any of the requirements under sections 4, 5, 6 or 7 below at any time during or after the term of this Agreement the District may, as applicable, terminate the Agreement and/or disqualify the Contractor from future agreements with the District.

### 3. **Definitions.**

3.1. As used in this Agreement, "personally identifiable information" is defined as information (including metadata) that, alone or in combination, is linked or linkable to a specific student so as to allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty. Personally identifiable information includes but is not limited to: (a) the student's name; (b) the name of the student's parent or other family members; (c) the address or phone number of the student or student's family; (d) personal identifiers such as the student's social security number, student number or biometric record; and (e) indirect identifiers such as the student's date of birth, place of birth or mother's maiden name.

3.2. As used in this Agreement, "education records" is defined as records, files, documents and other materials that: (a) contain information directly related to a student; and (b) are maintained by the District, or by a party acting for the District such as the Contractor.

3.3. As used in this Agreement, "confidential student records and information" is defined as education records and personally identifiable information concerning District students, including but not limited to confidential student records and information disclosed to, collected by and/or generated by the Contractor. Confidential student records and information



does not include “de-identified confidential student records and information,” as defined in section 3.4 below.

3.4. As used in this Agreement, “collect” is defined as the gathering of data and other information by any means, including but not limited to the use of logs, cookies, tracking pixels, etc.

3.5. As used in this Agreement, “de-identified confidential student records and information” is defined as confidential student records and information from which all personally identifiable information, and the ability to determine any personally identifiable information, is removed.

3.6. As used in this Agreement, “securely destroy” is defined as removing confidential student records and information from the Contractor’s systems, paper files, hard-copy and electronic records, databases and any other media regardless of format, in accordance with the standard detailed in the National Institute of Standards and Technology (“NIST”) SP 800-88 Guidelines for Media Sanitization, so that the confidential student records and information are permanently irretrievable in the Contractor’s normal course of business.

3.7. As used in this Agreement, “eligible student” is defined as a student who is at least 18 years of age or who is legally emancipated.

4. **Ownership of Confidential Student Records, Information.** All confidential student records and information shall remain the exclusive property of the District and all rights, title and interest in the confidential student records and information, including but not limited to intellectual property rights in the confidential student records and information, belong to and are retained solely by the District. The District hereby grants to the Contractor a limited, nonexclusive license to access, view, collect, generate and use confidential student records and information solely for the purpose of performing its obligations under this Agreement.

5. **Security of Confidential Student Records and Information.**

5.1. The Contractor shall store and process confidential student records and information in accordance with commercial best practices, including implementing appropriate administrative, physical and technical safeguards that are no less rigorous than those outlined in CIS Critical Security Controls, as amended, to secure such confidential student records and information from unauthorized access, disclosure, alteration and use. The Contractor shall ensure that all such safeguards, including the manner in which confidential student records and information is collected, accessed, used, stored, processed, disposed of and disclosed, comply with all applicable federal and state data protection and privacy laws, regulations and directives, including but not limited to Colorado’s Student Data Transparency and Security Act, C.R.S. §§ 22-16-101 to -112. Without limiting the foregoing, and unless expressly agreed to the contrary in writing, the Contractor warrants that all electronic confidential student records and information will be encrypted in transmission and at rest in accordance with NIST Special Publication 800-57, as amended.

5.2. The Contractor shall conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. The Contractor shall promptly notify the



District in the event of: (a) any security or privacy breach concerning confidential student records and information; and/or (b) any use or disclosure of student personally identifiable information not authorized under this Agreement.

6. **Use of Confidential Student Records and Information.**

6.1. Under the Agreement, Contractor may access, view, collect, generate and/or use confidential student records and information only under the following terms and conditions: (a) except as provided in section 6.2 below, Contractor shall not disclose confidential student records and information, in whole or in part, to any other party; (b) Contractor shall not use any confidential student records or information to advertise or market to students or their parents/guardians; (c) Contractor shall access, view, collect, generate and use confidential student records and information only to the extent necessary to perform its obligations under the Agreement; and (d) at the conclusion of the term of the Agreement the Contractor shall, as directed by the District, either securely destroy all confidential student records and information in its possession, custody or control, or return such confidential student records and information to the District.

6.2. Contractor may to the extent necessary to perform its obligations under the Contract disclose confidential student records and information to subcontractors as identified in Exhibit A ("Subcontractors") pursuant to written subcontracts specifying the purpose of the disclosure and providing that: (a) Subcontractors shall not disclose confidential student records and information, in whole or in part, to any other party; (b) Subcontractors shall not use any confidential student records or information to advertise or market to students or their parents/guardians; (c) Subcontractors shall access, view, collect, generate and use confidential student records and information only to the extent necessary to assist Contractor in performing its obligations under the Agreement; and (d) at the conclusion of their work under their subcontracts Subcontractors shall, as directed by the District through the Contractor, either securely destroy all confidential student records and information in their possession, custody or control, or return such confidential student records and information to the District.

6.3. Contractor and Subcontractors may use de-identified confidential student records and information for purposes of research, the improvement of its products and services, and/or the development of new products and services. In no event shall the Contractor or Subcontractors re-identify or attempt to re-identify any de-identified confidential student records and information.

6.4. Contractor and Subcontractors shall promptly furnish to the District upon request all confidential student records and information they have collected and/or generated and not in the District's possession. Such requests may include but shall not be limited to those made in order to respond to parent/guardian and eligible student requests to inspect and review education records as authorized under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g ("FERPA") and/or under the Colorado Open Records Act, C.R.S. §§ 24-72-200.1 *et seq.* ("CORA"). The District, not the Contractor or Subcontractors, shall respond to all parent/guardian and eligible student requests to inspect and review records, data and other information.



7. **School Service Contract Provider.** If Contractor is a “school service contract provider” under the Colorado Student Data Transparency and Security Act (the “Act”), the Contract is amended to add the language in this section 7. Under the Act, a “school service contract provider” is defined as an entity (other than the Colorado Department of Education, a K-12 public education entity or an institution of higher education) that enters into a formal, negotiated contract with the District to provide a “school service.” Under the Act, a “school service” is defined as an Internet website, online service, online application or mobile application that: (a) is designed and marketed primarily for use in a preschool, elementary school or secondary school; (b) is used at the direction of District teachers or other District employees; and (c) collects, maintains or uses confidential student records and information.

7.1. As a school service contract provider under the Act, the Contractor has provided the following information the attached Exhibit A: (a) the data elements of confidential student records and information that Contractor collects under the Contract, regardless of whether the data elements are initially collected or ultimately held individually or in the aggregate using protocols that are effective for preserving the anonymity of each student included in the data; (b) the learning purpose for which Contractor collects the confidential student records and information; and (c) how the Contractor uses and shares the confidential student records and information. Contractor shall update this information as necessary to maintain accuracy.

7.2. Contractor shall facilitate the District’s access to and correction of any factually inaccurate confidential student records and information as required in response to correction requests from parents/guardians and eligible students.

8. **Remedies.** If Contractor fails to comply with any of the foregoing requirements in sections 4, 5, 6 or 7 at any time during or after the term of the Agreement the District may, as applicable, terminate the Agreement and/or disqualify Contractor from future contracts and subcontracts with the District.

9. **Access to District Server.** If access to any District server is necessary for the functionality of the Contractor’s services. Upon written approval by the Executive Director of Information Technology or designee, the District grants the Contractor limited access to the District server for the sole purpose of providing Services

9.1. The Contractor agrees to protect the confidentiality, integrity and availability of all electronic District or student information at all times.

9.2. The Contractor agrees to take proper steps to ensure the security of the device in which they connect to the District’s systems remotely. The Contractor agrees not to copy information accessed remotely to local devices and or portable devices. Printing information is not permitted unless specific authorization has been granted.

9.3. The Contractor shall not share passwords, codes, credentials or user accounts with others.

9.4. The Contractor shall have a valid and up-to-date antivirus agent installed to ensure protection against malware and viruses upon connection to the District network.



9.5. The Contractor acknowledges that if the District determines in its discretion that remote access has been compromised by unauthorized parties, or that remote access has been misused, the Contractor's access will be disabled or terminated immediately.

10. **Notices and Communications.** All notices and communications required or permitted under this Agreement shall be in writing and shall be: (a) sent via certified mail, return receipt requested and postage prepaid, to the address of the other party set forth below; or (b) sent via e-mail to the other party via the e-mail address set forth below.

Poudre School District R-1  
Attn: Tracy Stibitz  
2407 LaPorte Avenue  
Fort Collins, CO 80521  
E-mail: [tstibitz@psdschools.org](mailto:tstibitz@psdschools.org)

Class Composer  
Attn: Mike Cronley  
1023 Walnut Street  
Boulder, CO 80302  
E-mail: [mcronley@classcomposer.com](mailto:mcronley@classcomposer.com)

11. **Insurance.** Contractor shall procure and maintain the required insurance specified below for the duration of this Agreement, which insurance shall be written for not less than the amounts specified or greater if required by law. The District's receipt of a Certificate of Insurance from the Contractor with limits and or coverages that do not meet the requirements does not waive the requirements and the Contractor shall still be responsible for the limits and coverages stated in this Agreement. Specified coverages and amounts may be provided by a combination of a primary policy plus an umbrella or following form excess policy. All insurance shall be with a carrier licensed in the state of Colorado and shall have a minimum A.M. Best rating of A- VII. Contractor shall furnish the District's Director of Records and Risk Management with certificates of the required insurance prior to the District's approval and signing of this Agreement, and with renewal certificates prior to the expiration of any required insurance that expires during the term of this Agreement. Memorandums of Insurance will not be accepted. Certificates of Insurance and all communication regarding insurance shall be addressed to:

Poudre School District  
Attention: Risk Management  
2407 Laporte Ave  
Ft. Collins, CO 80521  
Email Certificate to: [COI@psdschools.org](mailto:COI@psdschools.org)

Any insurance and/or self-insurance carried by the District is excess of the coverage extended to the District by Contractor. Contractor shall provide at least thirty (30) days' advance written notice to the District prior to cancellation, change of coverage, or non-renewal. The insurance requirements specified in this section 11 shall not reduce the indemnification liability that Contractor has assumed in section 12.

### **Commercial General Liability**

#### **Minimum Limits**

- |  |             |
|--|-------------|
| a. Each Occurrence Bodily Injury & Property Damage | \$2,000,000 |
| b. General Aggregate                               | \$3,000,000 |
| c. Products/Completed Operations Aggregate         | \$2,000,000 |

- d. Personal/Advertising Injury \$2,000,000
- e. Coverage must be written on an "occurrence" basis.
- f. Poudre School District R-1 and its elected officials, employees, agents, and volunteers shall be named as an additional insured or covered as an additional insured by way of a blanket endorsement and shall be insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Agreement.

**Technology Errors and Omissions Liability (Professional Liability, including Network Security and Privacy Liability)**

Minimum Limits

- a. Per Loss \$1,000,000
- b. Aggregate \$3,000,000
- c. Liability extends for a period of three (3) years beginning at the time work under this Agreement is completed. Contractor shall maintain continuous coverage, as required by the Agreement, for this period.

The insurance shall provide coverage for:

- a. Liability arising from theft, dissemination and/or use of confidential information (defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc. information) stored or transmitted in electronic form.
- b. Network Security Liability arising from the unauthorized access to, use of or tampering with computer systems including hacker attacks, inability of an authorized third party to gain access to Contractor's services including denial of service, unless caused by a mechanical or electrical failure.
- c. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a District or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.

12. **Indemnification.** The Contractor shall indemnify and hold harmless the District and the District's Board members, employees, representatives and agents from and against any and all liability arising from any suit, action, third party claims, grievance, or proceeding, including all attorneys' fees, costs and expenses, incurred as a result of any negligent or intentional act or omission by Contractor, or its employees, agents, Subcontractors, or assignees related to the terms of this Agreement and any Services provided under this Agreement.

13. **Governmental Immunity.** It is specifically understood and agreed that nothing contained in this Agreement shall be construed as an express or implied waiver by the District of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Constitution or Governmental Immunity Act, C.R.S. §§ 24-10-101 *et seq.*, as now or hereafter amended.



14. **General Provisions.**

14.1. **No Assignment.** The Contractor shall not assign this Agreement or any of its rights, interests or obligations under this Agreement without the prior written consent of the District, which consent may be withheld for any reason or no reason as determined by the District in its sole discretion.

14.2. **No Waiver.** The parties agree that no assent or waiver, express or implied, to any breach of any one or more of the covenants of this Agreement shall be construed as or deemed to be an assent to or a waiver of any subsequent breach.

14.3. **Press Contacts/News Releases.** The Contractor shall not initiate any press, media, or social media, contact nor respond to press, media or social media requests regarding this Agreement and/or any related matters concerning the District without the prior written approval of the District.

14.4. **Amendment or Modification.** No amendment or modification of this Agreement shall be valid unless set forth in writing and executed by the District and the Contractor through written amendments to the Agreement, in the same manner and with the same formality as was done for this Agreement.

14.5. **Conflict of Terms.** In the event of any conflict of terms found between this Agreement, any incorporated exhibits, any other terms and conditions, end user license agreements or privacy policies, the terms of this Agreement shall prevail.

14.6. **Survival of Certain Contract Terms.** Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this Contract and the exhibits and/or attachments hereto which may require continued performance, compliance, or effect beyond the termination date of the Contract shall survive such termination date and shall be enforceable by the District as provided herein in the event of such failure to perform or to comply by the Contractor.

14.7. **Governing Law and Venue.** All issues regarding the formation, performance and/or legal enforcement of the Contract shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for the resolution of any disputes arising out of or relating to the Contract shall be in Larimer County, Colorado.

14.8. **No Third-Party Beneficiary.** Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the District and the Contractor. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any third person other than the District or the Contractor. It is the express intent of the parties that any third person receiving services or benefits pursuant to this Agreement shall be deemed an incidental beneficiary only.

14.9. **Binding Arbitration Prohibited.** The District does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary is null and void.

14.10. **Severability Clause.** Should any provision of this Agreement be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Agreement shall be unaffected thereby and shall continue to be valid and enforceable.

14.11. **Attorney Fees and Costs.** In the event it becomes necessary for either party to institute litigation to enforce any provision of this Agreement, the substantially prevailing party in such litigation shall receive, as part of any judgment or award entered, its reasonable attorney fees and costs, including expert witness fees.

14.12. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors and permitted assigns.

14.13. **Headings.** The headings used in this Agreement are for convenience only and shall have no effect upon the construction or interpretation of this Agreement.

14.14. **Entire Agreement.** This Agreement constitutes the entire Agreement of the parties regarding the subject matter addressed herein and supersedes all prior Agreements, whether oral or written, pertaining to said subject matter.

14.15. **Signatures.** This Agreement may be executed and delivered via portable document format (pdf), and the pdf signature of any party shall be considered valid, binding, effective and an original for all purposes. This Agreement may be signed in counterparts, and each counterpart shall be deemed an original, and all the counterparts taken as a whole shall constitute one and the same instrument.

14.16. **Warranty of Authority.** The individuals signing below represent and warrant that they have the authority to execute this Agreement on behalf of their respective organizations and bind their respective organizations to the terms of this Agreement.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the District and the Contractor have signed this Agreement as of the date first set forth above.

CLASS COMPOSER

POUDRE SCHOOL DISTRICT R-1

By: Mike Cronley

Mike Cronley  
Chief Executive Officer

By: R. David Montoya  
R David Montoya (Apr 17, 2023 13:52 MDT)

R. David Montoya  
Chief Finance Officer

By: Traci Gile  
Traci Gile (Apr 17, 2023 11:29 MDT)

Traci Gile, PhD  
Assistant Superintendent of  
Elementary Schools



# Exhibit A

## DESCRIPTION OF SERVICES

### **Description of Services**

Class Composer is a software program to help elementary schools streamline the process to create class lists. The decision making process of where to place elementary students into classes for the next academic year is currently done at most schools using paper cards or sticky notes. Information like gender, academic level, behavior ratings, identified labels like ELL (English Language Learner), and placement requests are handwritten on a paper card for each student and then those cards are manually sorted in an attempt to create equitable classes in a grade level. This cumbersome process results in the creation of inequitable classes due to the large amount of data to consider and time constraints on educators. Since elementary students are rarely switched out of classes once the school year starts any inequity negatively impacts the teaching and learning in that classroom for the entire year. Our cloud based software program makes it easier for teachers and principals to create more equitable classes in less time.

**Price**

Yearly subscription of \$699/year/school. Annual subscription period starts upon payment.

**Data Collected Through Use of System**

| Data Collected  | General Purpose of Data Collection        |
|---|---|
| School Address  | Required to support product functionality |
| School Phone Number   | Required to support product functionality |
| School District   | Required to support product functionality |
| School Leader First & Last Name                                   | Required to support product functionality |
| School Leader Email   | Required to support product functionality |
| First & Last Name of Staff Added to Administrator Role in Program | Required to support product functionality |
| Email of Staff Added to Administrator Role in Program             | Required to support product functionality |
| First & Last Name of Staff Added to Teacher Role in Program       | Required to support product functionality |
| Email of Staff Added to Teacher Role in Program                   | Required to support product functionality |
| First & Last Name of Student                                      | Required to support product functionality |
| Gender of Student   | Required to support product functionality |
| Student Reading Level Ratings                                     | Required to support product functionality |
| Student Writing Level Ratings                                     | Required to support product functionality |
| Student Math Level Ratings  | Required to support product functionality |
| Student Behavior Level Ratings                                    | Required to support product functionality |
| Student Work Skills Ratings                                       | Required to support product functionality |
| Student Grade Level   | Required to support product functionality |

### Third Party Information

| Vendor                | URL   | Description              |
|-----------------------|---|--------------------------|
| Google Cloud Platform | <a href="https://cloud.google.com/">https://cloud.google.com/</a>   | Database and Web hosting |
| Mailjet               | <a href="https://www.mailjet.com/">https://www.mailjet.com/</a>     | Email delivery           |
| FullStory             | <a href="https://www.fullstory.com/">https://www.fullstory.com/</a> | Customer support         |

# Exhibit B



**Class Composer Inc**

1023 Walnut St #100  
Boulder, CO 80302  
support@classcomposer.com  
classcomposer.com



Quote

ADDRESS  
Tracy Stibitz  
Poudre School District

QUOTE 1936  
DATE 04/06/2023  
EXPIRATION DATE 04/28/2023

| ITEM              | DESCRIPTION                                | QTY | RATE   | AMOUNT |
|-------------------|--|-----|--------|--------|
| Class Composer    | One year subscription to Class Composer.   | 1   | 799.00 | 799.00 |
| Discount          | District Discount                          | 1   | -50.00 | -50.00 |
| Advanced Features | Virtual Whiteboard and Progress Monitoring | 1   | 0.00   | 0.00   |

One-year subscription to Class Composer for Laurel Elementary school starting on 05/01/2023.

TOTAL

**\$749.00**

Accepted By

Accepted Date

**Class Composer Inc**

1023 Walnut St #100  
Boulder, CO 80302  
support@classcomposer.com  
classcomposer.com



Quote

ADDRESS  
Tracy Stibitz  
Poudre School District

QUOTE 1930  
DATE 04/03/2023  
EXPIRATION DATE 04/28/2023

| ITEM                   | DESCRIPTION                                | QTY | RATE   | AMOUNT   |
|------------------------|--|-----|--------|----------|
| Class Composer         | One year subscription to Class Composer.   | 7   | 799.00 | 5,593.00 |
| Class Composer x Small | One year subscription to Class Composer    | 4   | 599.00 | 2,396.00 |
| Discount               | District Discount                          | 11  | -50.00 | -550.00  |
| Advanced Features      | Virtual Whiteboard and Progress Monitoring | 11  | 0.00   | 0.00     |

This is a quote for 11 subscriptions starting on 05/01/2023  
7 Average: Werner, Bennett, Bacon, Eyestone, Riffenburgh, O'Dea, Zach  
4 Small: Bainford, Cache La Poudre, Olander, and Shepardson

TOTAL

**\$7,439.00**

Accepted By

Accepted Date