



## Terms of Use Agreement

BY USING THIS SYSTEM, YOU INDICATE THAT YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE YOU MUST DISCONTINUE YOUR USE OF THIS SYSTEM IMMEDIATELY.

**Grant of License.** Customer is granted a non-exclusive, non-transferable, revocable, limited license to use the Online Scheduler™. Customer will not have any proprietary rights in and to the software and materials accessible in the Online Scheduler™.

**License Violations.** Customer's license to use the Online Scheduler™ shall be revocable and will automatically terminate upon violation of the terms hereof or upon Customer's use of the software beyond the scope of the license provided herein.

**Description of Service.** Subject to the terms and conditions of the Agreement, Company will provide the following: Online Scheduler™ ("Site"), a service that allows teachers and counselors to create and maintain their parent-teacher (or counselor) conference schedules online, and provides parents/guardians with access to that information through the internet. All users of this Site including teachers, administrators, counselors, parents and guardians are responsible for their own access to the internet.

**Customer Responsibilities.** Customer agrees to provide accurate, current, and complete data for the Site to operate correctly. *If Customer provides any data that is not accurate, not current, incomplete, or if Company has reasonable grounds to suspect that information provided is not accurate, not current, or incomplete, Company has the right to suspend or terminate Customer's account.*

**Fees.** Customer agrees to pay the then current fees associated with the service. Company reserves the right to modify its fees without notice.

**Acceptable Use.** Users are solely responsible for their actions taken through the use of their sign in account. Users may not:

- use any information, including personal information, accessible through the Site for any purpose other than its intended purpose in connection with the services provided by the Site;
- transmit or re-circulate any information, content or material obtained from the Site or to create a database, electronic or otherwise, that includes information or material downloaded or otherwise obtained from the Site;
- distribute, copy, publish, assign, sell, bargain, convey, transfer, pledge, lease or grant any further rights pertaining to access to this Site or any materials on this Site;
- modify, enhance, reverse engineer or otherwise alter or access the software code that provides the features Customer is entitled to use.

**Privacy Policy.** Canyon Creek Software is committed to respecting and securing the privacy of your data. We recognize your need for appropriate protection and management of any personal information you share with us.

1. **Data Used:** Canyon Creek Software uses *Directory Information* to allow parents and teachers to schedule conference appointments. Canyon Creek Software does



not use educational, medical, disciplinary or other data/information. The only data created by users of the system is conference appointment dates and times.

2. **System Users:** The Online Scheduler™ is for use by parents/guardians, teachers, and school administrators/staff. It does not have a student login or account. Parent/guardians sole action within the system is create an appointment with their teacher or counselor. No ancillary data/information, or concerns/requests/issues/questions etc. can be entered into the Online Scheduler™ by the parent/guardian.
3. **Data Protection:**
  - (a) Canyon Creek Software provides a secure portal to receive the data directly from the school/district. The use of this portal (*file transfer protocol over transport layer security (FTP over TLS, or simply FTPS). The FTPS protocol encrypts the data while it is in transit by utilizing our 256 bit encrypted SSL Extended Validation (EV) certificate issued an SSL Certificate Authority (CA)*) is at the school/district's option. Canyon Creek Software is open to investigating and using similarly secure portals.
  - (b) Canyon Creek Software also uses FTPS protocols if we ever should need to transfer data from one server to another. We do not use email to send or transfer data.
  - (c) Canyon Creek Software uses professional and secure server facilities located in the U.S. to store the data and run the Online Scheduler™. The servers have robust firewall systems in place with built-in redundancy. Physical access to the servers is restricted by physical barriers, identification verification (including passcodes and bio-scans), and live security measures. Logical access is secured by strict login credentials and passwords.
  - (d) Use of the Online Scheduler™ occurs via HTTPS protocols; i.e., the data is encrypted during transmission.
  - (e) Parents/guardians that contact Canyon Creek Software requesting information regarding their student appointment schedule or access to the system are directed to contact the school directly. The only times that parents can be assisted by Canyon Creek Software is when the parents provide the secure confirmation number they received from the system when they made an appointment and/or if the parent contacts Canyon Creek Software using the same email address that was used when the appointment was created.
4. **Data Usage:** Canyon Creek Software only uses the data for the express purpose of allowing parents and teachers/counselors to schedule conference appointments. The data is not used or aggregated in any way for any other application or purpose. The data is not used for any marketing, direct or otherwise.
5. **Data Sharing:** Unless required by law, Canyon Creek Software will not share, rent, sell, etc. the data with third parties for any reason.
6. **Data Ownership:** Canyon Creek Software does not claim ownership in the data.



7. **Data Removal/Deletion:** Canyon Creek Software deletes the data, including all backups, annually or upon request.
8. **Privacy Training:** The Canyon Creek Software team undergoes annual training regarding FERPA privacy compliance, changes in state laws regarding the privacy and protection of personal information as applicable to public schools, and our own internal policies regarding securing and protecting the data we use.

**Copyrights and Trademarks.** Customer is hereby notified that any and all content and software made available for use through this Site is the copyrighted work of Company or of the appropriate owner. Customer should not assume that any item available on or through this Site is in the public domain or constitutes "free ware." Company asserts all copyrights and other proprietary rights in and to such items regardless of whether such materials include a notice of copyright.

Any adaptation, modification, publication, reproduction, redistribution, or any other action on materials accessible through this Site (including all software code) is in violation of the copyright owner's exclusive rights under the United States Copyright Act which is beyond the scope of the rights granted in this Agreement and will constitute an infringement upon the rights of the Company copyright and is punishable under the United States Copyright Act.

All trademarks used or referred to on this Site are the property of their respective owners. The names, logos and icons identifying the Company and/or its products and services, are proprietary trademarks of Company and may not be used for any purpose without the express written consent of Company.

**No Warranty.** The contents and operations of the Online Scheduler™ and all items accessed through the website are provided on an "AS IS" basis and may contain technical and typographical errors. COMPANY MAKES NO REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED AND HEREBY DISCLAIMS ANY AND ALL SUCH WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OWNERSHIP, AND NON-INFRINGEMENT, WITH RESPECT TO SERVICES, MATERIALS, OR PRODUCTS OFFERED BY COMPANY. No oral advice or written information provided shall create a warranty; nor shall users or visitors to the Online Scheduler™ website rely on any such information or advice.

**Disclaimer of Liability.** CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT COMPANY SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SERVICE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICE RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICE PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF CUSTOMER TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR (v) ANY OTHER MATTER RELATING TO THE SERVICE.



CUSTOMER ALSO AGREES THAT COMPANY WILL NOT BE LIABLE FOR ANY (1) INTERRUPTION OF BUSINESS, (2) ACCESS DELAYS OR ACCESS INTERRUPTIONS TO THIS SITE OR THE WEB SITE(S) CUSTOMER ACCESSES THROUGH THIS SERVICE; (3) DATA NON-DELIVERY, MIS-DELIVERY, CORRUPTION, DESTRUCTION OR OTHER MODIFICATION; (4) EVENTS BEYOND COMPANY'S CONTROL;

IN NO EVENT SHALL COMPANY'S MAXIMUM AGGREGATE LIABILITY EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO COMPANY FOR THE SERVICE. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES, COMPANY'S LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY LAW.

While measures are taken to secure information, Company shall not be liable for the actions of third parties in breach of any security measures. Additionally, Company disclaims any and all responsibility or obligation for software (online or otherwise) or feature available through the Online Scheduler™ service, including infringement upon the rights of any other party, any errors, viruses or functioning of any software through this Site, and all other claims, suits, threats, and demands relative to any such software or functionality. Company is not responsible for the results of any errors, omissions or defects that may be found to exist in the Online Scheduler™ or the items available by access hereto.

**Indemnity.** To the extent permitted by law, Customer agrees to indemnify, reimburse and hold Company and its respective members, officers, directors, employees, representatives, affiliates, and agents ("Indemnitees") harmless from any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements (including, without limitation, reasonable attorneys' fees and expenses) of whatsoever kind or nature which may be imposed on, asserted against or incurred by any of the Indemnitees in any way relating to any breach of these terms by Customer or Customer's use of any services offered by Company.

**Governing Law.** This Agreement shall be interpreted under the laws of the State of Utah. You agree that all controversies pertaining to the Site shall be brought in the courts of Salt Lake County, State of Utah. You hereby submit to the jurisdictions of such court. Federal courts located in the state of Utah shall have jurisdiction over copyright claims brought by the Licensor and you hereby submit to the jurisdiction of federal court located in the State of Utah.

**Failure To Enforce.** Company's failure to enforce any rights hereunder or its copyright in the software shall not be construed as amending this Agreement or waiving any of Company's rights hereunder or under any provision of state or federal law.

**Disclaimer of Endorsement:** *Reference to commercial or non-commercial products or services does not constitute or imply its endorsement or recommendation in any way by Company.*

**Site Maintenance & Updates.** Company will generally make updates to the Site during off hours and will restrict access for as short a time as possible, however Company reserves the right to restrict access to the Site at any time to update or otherwise maintain the Site. Additionally Company reserves the right to enhance, update, remove, or otherwise change services, products, programs, features, and content without notice.



**Compatibility.** Company makes no warranties about the compatibility of the Site with any hardware, and/or software which may be used to access the Site.

**Survival.** All representations and warranties in the Agreement shall survive the termination of the Agreement.

THIS AGREEMENT MAY BE MODIFIED WITHOUT NOTICE AND AT CANYON CREEK SOFTWARE, LC'S SOLE DISCRETION. YOU ARE RESPONSIBLE FOR REGULARLY REVIEWING THIS AGREEMENT TO OBTAIN TIMELY NOTICE OF SUCH CHANGES. YOUR CONTINUED USE OF THE SITE SHALL CONSTITUTE ACCEPTANCE OF SUCH MODIFICATIONS.

