

End User Agreement

TERMS AND CONDITIONS

READ THE TERMS AND CONDITIONS OF THIS END USER AGREEMENT (“**AGREEMENT**”) CAREFULLY BEFORE DOWNLOADING, INSTALLING, OBTAINING A LICENSE, OR OTHERWISE ACCESSING OR USING THE SERVICE (AS DEFINED BELOW).

THIS AGREEMENT IS EFFECTIVE AS OF THE DATE YOU EXECUTE OR OTHERWISE ACKNOWLEDGE AGREEMENT TO THE POLICY SERVICE PROVIDER’S PARTICIPATION CONTRACT (OR SIMILARLY-TITLED AGREEMENT) OF WHICH THIS AGREEMENT IS MADE A PART (THE “**EFFECTIVE DATE**”), AND BY DOING SO AND MAKING USE OF THE SERVICE, YOU ARE CONSENTING TO BEING BOUND BY THIS AGREEMENT. IF YOU ARE ACCEPTING ON BEHALF OF YOUR EMPLOYER OR ANOTHER ENTITY, YOU REPRESENT AND WARRANT THAT: (I) YOU HAVE FULL LEGAL AUTHORITY TO BIND YOUR EMPLOYER, OR THE APPLICABLE ENTITY, TO THESE TERMS AND CONDITIONS; (II) YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; AND (III) YOU AGREE, ON BEHALF OF THE PARTY THAT YOU REPRESENT, TO THIS AGREEMENT.

FOR THE AVOIDANCE OF DOUBT, “YOU” OR “YOUR” MEANS THE PERSON AND/OR ENTITY WHO USES THE SERVICE IN ACCORDANCE WITH THIS AGREEMENT.

IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT MAKE USE OF THE SERVICE.

- 1. Access.** Diligent Corporation (“**Diligent**”), with offices at 111 West 33rd Street, 16th Floor, New York, NY 10120, provides a proprietary, cloud-based service known as the **BoardDocs Policy Management Console** and the **BoardDocs Authenticated User PL Service** (both the “**Service**”) that provides Policy Service Providers, such as Pennsylvania School Boards Association, Inc. (“**PSBA**” or “**Customer**”) or PSBA’s Affiliates, (each as applicable, with PSBA, “**Policy Service Provider**”) the ability to manage and distribute policy guides and policy news/updates for Policy Service members, and provides Policy Service members a platform upon which they can tailor such policy guides to their local preference and manage draft policies, and through which members can make their finally adopted policies accessible to the general public via links on the member’s website, all on and subject to the terms of this Agreement. Diligent is making available the Service to You, commencing on the Effective Date and continuing until the earlier of (a) Diligent or the Policy Service Provider terminating Your access to the Service or (b) the termination of your relationship with the Policy Service Provider. The Service will run as a web app on any computer with a contemporary browser and internet connection. By using the Service, You agree to use, and Diligent agrees to make available to You and designated users, the Service, all in accordance with and subject to the terms and conditions described in this Agreement.
- 2. Provision of the Service.** Subject to (i) You agreeing to this Agreement, and (ii) the Policy Service Provider identifying You as an authenticated user, Diligent shall provide access to the Services subject to the terms and conditions of this Agreement and the Diligent Acceptable Use Policy (“**AUP**”), which AUP is posted on Diligent’s website at <http://www.BoardDocs.com/Home.nsf/legal> and which is incorporated into and made a part of this Agreement. Diligent reserves the right to modify certain components of the Service as required by changes in laws, regulations or technology, or to make improvements or correct problems or issues.
- 3. Termination.** Diligent may terminate this Agreement and/or cease or suspend the provision of all or any part of the Service as set out in Section 1, as well as upon: (a) any illegal, slanderous, infringing or inappropriate Content being loaded on any website or otherwise transmitted or used in connection with the Service which is not immediately ceased and removed after request by Diligent; or (b) any material breach of this Agreement including but not limited to any violation of the AUP. Upon any termination of this Agreement, You agree your right to use the Service or Diligent’s Intellectual Property and Marks (as defined in Section 7 hereof) immediately ceases and You shall cause all of your staff, contractors and affiliates to cease using the Service and all of Diligent’s Intellectual Property. You agree to completely destroy all copies in any form of the Service and Diligent Intellectual Property (and any accompanying documentation) in You or Your contractor’s possession upon termination of this Agreement for any reason.
- 4. Use of the Service.** Subject to the terms and conditions of this Agreement, Diligent hereby grants to You, and You hereby accept, a non-exclusive, non-sublicenseable, non-transferable, revocable, limited license to access the Service and use solely for Your business purposes the Service. You will be responsible for all hardware, software (including browser software) and Internet communication links and connectivity necessary to access the Service from Your respective facilities, including, without limitation, maintaining sufficient bandwidth to meet its utilization demands. You will be solely responsible for ensuring that only Your staff and contractors post and manage Your Content using the Service. You will ensure that Your staff and contractors comply with all of the terms and conditions of this Agreement, including the AUP and all applicable laws, rules, regulations and ordinances. You will not modify, adapt, translate, hypothecate, lease, disclose, loan, sublicense, resell, distribute or create derivative works based on all or any part of the Service or Diligent’s Intellectual Property or Marks, unless permitted by Diligent. You will not attempt to decompile, reverse engineer or disassemble the Service for which source code is not provided, and You will be liable to Diligent for any unauthorized copying, reverse engineering or use of the Service by Your staff and Your contractors. Unless otherwise agreed in writing by Diligent, You will not, remove or modify, or attempt to remove or modify, any proprietary notices contained in or associated with the Service. You agree that You are solely responsible for maintaining, and ensuring that Your staff and contractors maintain, the confidentiality of any user passwords or access codes entrusted to You or Your users, and for all activities resulting from their authorized or unauthorized use.

- 5. Your Content and Data.** Subject to the terms of this Agreement, You are solely responsible and liable for all content You, your users, or any third party posts or transmits using the Service (the "**Content**"), and Diligent has no responsibility or liability therefore, nor will Diligent be responsible for reviewing or determining the accuracy or appropriateness of any such Content. "Content" does not include data or information regarding other customers of Diligent or any information provided by Diligent. Notwithstanding the foregoing, Content includes data posted and maintained in the Service by You. You will not use any information accessible from the Service in conjunction with any enterprise unrelated to Your business or not authorized or contemplated by this Agreement. In any case this does not imply Diligent ownership or a license by You to Diligent of Your Content. You reserve exclusive rights to all of Your information stored in fields and as attachments in the Service. At Your request, Diligent will export the data from the Service database in its native format at no charge to You. If You desire Diligent to convert the data into any other format other than its native format, You shall pay Diligent two-hundred and fifty dollars (\$250) per hour for such conversion services. You hereby grant to Diligent, and Diligent hereby accepts, a non-exclusive, royalty-free, irrevocable, perpetual license for the term of the Agreement to use such Content, information and data for the exclusive purposes of providing the Service to You and performing any other obligations under this Agreement, for Diligent's business purposes relating to the Service as defined in this Agreement, and for the maintenance or use of business records and information associated with any of the foregoing. You are solely responsible for such Content, information and data (including, without limitation the accuracy of such Content, information and data) and for ensuring that You have the necessary rights to use such Content, information and data, and You will defend, and satisfy any claims, judgments or expenses of or against Diligent, arising out of any third-party claims relating to such Content, information or data. You have only the limited rights granted by this Agreement.
- 6. Acceptable Use.** You shall ensure that Your use of the Service will comply with the Diligent's AUP. You will not (a) post or transmit on or through any website or network through which the Service is provided any libelous, slanderous, obscene or otherwise unlawful information or materials of any kind or any information that invades the privacy or rights of a third party; (b) interfere with or disable the Service or Diligent's systems or operations in any way; (c) engage in any conduct involving the Service that would constitute a criminal offense or give rise to civil liability under any local, state, federal or other law or regulation; or (d) post, transmit, upload, reproduce or distribute to, from or through the Service any material or Content protected by copyright, patent, confidentiality, trade secret, trademark, privacy or other intellectual property or proprietary rights without first obtaining sufficient legal consent or written permission from the owner thereof. Unless the law that governs Your existence or operation prohibits this, You agree to defend, indemnify and hold harmless Diligent from any and all liabilities, costs and expenses, including reasonable attorneys' fees, arising from or related to a failure of You, Your staff or Your contractors to comply with all applicable laws, this Agreement or the AUP or Your actions or omissions with respect thereto.
- 7. Ownership and Intellectual Property.** "**Intellectual Property**" means (a) copyrights, trademarks (and all goodwill associated therewith), service marks (and all goodwill associated therewith), and any other rights to any form or medium of expression and all applications for registration of any of the foregoing; (b) trade secrets and confidential information (as defined by applicable law), privacy rights and any other protection for confidential or proprietary information or ideas; (c) patents and patent applications; (d) inventions and any other items, information or theories which are protectable or registrable under any of the copyright, patent, trade secret, confidentiality or other intellectual property laws; and (e) any other similar proprietary rights or interests recognized by applicable law. You acknowledge and agree that Diligent owns (as between Diligent and You) and will retain all ownership in the Intellectual Property and all other property rights and interests associated with the Service, Diligent's Marks and all derivative works and components of any of the foregoing. You specifically disclaim, and acknowledge that You will never acquire, claim or seek to register, any Intellectual Property or other property rights or interests in the Service or Diligent Intellectual Property, or any derivative work of any of the foregoing, by operation of law or otherwise. You will execute and deliver confirmations or other written instruments as reasonably requested by Diligent to confirm Diligent's exclusive ownership of Diligent's Intellectual Property and the Service. As between You and Diligent, You will own all Intellectual Property or other property rights or interests in and to Your own data and Content. Subject to the terms of this Agreement, each party hereby grants to the other during the Term of this Agreement a royalty-free, non-exclusive, non-transferable license to use such party's trademarks and service marks (and the good will associated therewith) provided to the other by such party (the "**Marks**") solely in connection with the other's performance of this Agreement and in connection with their use of the Service. Each party agrees that any use of the other party's Marks will be in strict accordance with the other party's trademark and service mark guidelines as reasonably provided and revised by the other party from time to time. Diligent reserves all rights not expressly granted to You in this Agreement.
- 8. Disclaimer.** YOU ASSUME TOTAL RESPONSIBILITY FOR USE OF THE SERVICE, CONTENT AND THE INTERNET, AND YOU ACCESS THE SAME AT YOUR OWN RISK. DILIGENT EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE CONTENT ACCESSIBLE OR ACTIONS TAKEN ON THE INTERNET OR PROVIDED BY YOU, YOUR USERS, OR YOUR AFFILIATES, AND DILIGENT EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH CONTENT OR ACTIONS. THE SERVICE AND ANY RELATED SOFTWARE PROVIDED BY DILIGENT ARE PROVIDED WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING NO WARRANTY OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. DILIGENT DOES NOT WARRANT THAT THE SERVICE AND ANY RELATED SOFTWARE PROVIDED BY DILIGENT WILL BE UNINTERRUPTED OR ERROR-FREE. NO ADVICE, STATEMENT OR INFORMATION GIVEN BY DILIGENT, ITS AFFILIATES OR CONTRACTORS WILL CREATE A WARRANTY.
- 9. Limitations of Liability.** NO PARTY OR SUCH PARTY'S AFFILIATES OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES OR LOST DATA OR COSTS

OF COVER ARISING FROM OR RELATED TO THE SERVICE OR THIS AGREEMENT, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED AND REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LIABILITY, LOSS OR DAMAGE, EXCEPT WITH RESPECT TO ANY INDEMNITY PROVIDED BY YOU UNDER THIS AGREEMENT. YOUR REMEDIES FOR ANY AND ALL CLAIMS RELATED TO THIS AGREEMENT, AND DILIGENT'S AGGREGATE LIABILITY UNDER THIS AGREEMENT, SHALL NOT EXCEED FIFTY UNITED STATES DOLLARS (\$50).

10. Confidentiality. A party's "**Confidential Information**" means information or data (in oral, written, electronic or other form), excluding any "**Trade Secrets**" (as defined under applicable law), that is related to or owned or controlled by such party, is valuable to such party and is not generally known or readily available through legal means (other than its disclosure in reliance on this Agreement) to the receiving party. You acknowledge that the Service contains Confidential Information and Trade Secrets of Diligent. Subject to applicable law, a receiving party may use the disclosing party's Confidential Information or Trade Secrets to perform its obligations and exercise its rights under this Agreement, and may not communicate, disclose, transfer or use the disclosing party's Confidential Information or Trade Secrets for any other purpose without the prior written consent of the disclosing party. The foregoing restrictions shall not apply to any Confidential Information or Trade Secrets of the disclosing party that: (a) are in the public domain, other than due to the actions or omissions of the receiving party; (b) can be proven to have been already known by the receiving party before their disclosure by the disclosing party; (c) were independently developed by the receiving party without access to or use of any Confidential Information or Trade Secrets of the disclosing party. In addition, the receiving party may disclose disclosing party's Confidential Information or Trade Secrets only to its officers, directors and employees on a need-to-know basis after informing any such disclosees that it is confidential and subject to the terms of this Agreement, and provided that such disclosing party remains liable to ensure that such individuals comply with the requirements of this Agreement. Notwithstanding the foregoing, after giving reasonable notice to the disclosing party (which notice affords the disclosing party an opportunity to seek a protective order or other remedy), the receiving party may disclose the disclosing party's Confidential Information or Trade Secrets to the extent required by law or a court of competent jurisdiction. On request, each receiving party will return or destroy all copies or records that contain or reflect the disclosing party's Confidential Information or Trade Secrets. A party may seek injunctive relief to redress or prevent violations of this Section 10, in addition to, and not in lieu of, any other rights and remedies available to such party. Trade Secrets will be protected as required by this Agreement and applicable law for so long as they remain a Trade Secret under applicable law.

11. Miscellaneous

- (a) Unless the law that governs Your existence or operation prohibits this, this Agreement will be governed by Delaware law.
- (b) If any portion of this Agreement is held to be unenforceable, the unenforceable portion will be construed as nearly as possible to reflect the original intent of the parties and the remainder of the provisions will remain in full force and effect. Neither party's failure to insist upon strict performance of any provision of this Agreement will be construed as a waiver of any of its rights under this Agreement.
- (c) Notices under this Agreement will be sent to the addresses set forth above or to such other address as a party shall notify the other party in writing.
- (d) All terms and provisions of this Agreement which should by their nature survive the termination of this Agreement will so survive, including, but not limited to, the relevant provisions of Sections 3, 4 (except any licenses), 5, 6, 7, 8, 9, 10, and 11.
- (e) You understand that the Service is accessed through the Internet and data may travel over the unsecured networks of several third-party Internet service providers and thus may not be secure or confidential. Diligent is not responsible for Internet connectivity to Your location or any things that happen by or through internet or other transmission or access. Diligent will not be liable to You, or any User, for any delay or failure to perform any provision of this Agreement to the extent such delay or failure to perform is caused by an event beyond the reasonable control of Diligent, including, without limitation, an act of God; flood; riot; fire; explosion; judicial or governmental act; terrorism; military act; strike or lockout; third party act or omission; failure of utility or telecommunications facilities; virus, worm, trojan horse or other code, command, file or program designed to interrupt, destroy or limit the functionality of any content, information, software, hardware or equipment; Internet slow-down or failure; lightning or other weather condition or event; or any other act, omission or event outside the control of Diligent (all of which are "**Events of Force Majeure**").
- (f) This Agreement and AUP and other documents or items referenced herein or therein, constitute one and the same legally binding instrument and the entire agreement between You and Diligent with respect to the subject matter hereof and expressly supersede any contrary prior written or oral agreements or understandings between the parties. You may not assign this Agreement or any of its rights or obligations without the prior written consent of Diligent. The terms and conditions of this Agreement may not be amended except in a writing signed by both parties.