

# SchoolTalk School Subscription Agreement

Welcome to SchoolTalk, a cloud platform that creates efficiency for teachers, learners and parents. This Agreement forms a legal agreement between the school that you are registering on behalf of (School), and The Te Kete Hono-SchoolTalk. This Agreement sets out each party's rights and obligations in relation to the SchoolTalk website and SchoolTalk web application.

Please read this Agreement (which also refers to the Terms of Use, Code of Conduct and Privacy Policy) carefully. By accepting this Agreement you acknowledge and agree that the School must follow and be bound by the terms of this Agreement.

**If the School has registered to use the Subscription Services on a demonstration basis then clause 12 will also apply.**

**By entering into this Agreement you acknowledge that you have all necessary authority to enter into this Agreement on behalf of the School.**

## 1. Definitions and Interpretation

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1.1 In this Agreement, unless the context otherwise requires or is specified otherwise:

**Administration Portal** means that part of the Subscription Services accessible by an Administrator that allows the Administrator (on behalf of the School) to:

- (a) add, remove or change Authorised Users;
- (b) add, remove or change Subscription Services;
- (c) configure or customise any part of the Subscription Services; and
- (d) add, remove or change details in relation to the School's account with Te Kete Hono-SchoolTalk;

**Administrator** means any person authorised by the School to manage the School's account with Te Kete Hono-SchoolTalk;

**Authorised Users** means:

- (a) the School;
- (b) Administrators; and
- (c) users of the School added in accordance with clause 3, including teachers, students, and parents/caregivers/guardians of those students;

**Business Day** means a day other than a Saturday, Sunday or public holiday in Auckland, New Zealand;

**Code of Conduct** means the SchoolTalk Code of Conduct;

**Documentation** means the documentation (if any) made available to the School by Te Kete Hono-SchoolTalk (whether in hardcopy or electronic form) which sets out a description of the Subscription Services and the user instructions for the Subscription Services;

**Effective Date** means the date the School registers to use the Subscription Services;

**Fees** means the Professional Services Fee, Subscription Fee and Support Fee, as set out on the Pricing Page and Services Page;

**Fees Page** means the pricing and services pages set out at <http://schooltalk.co.nz/pricing> and <http://schooltalk.co.nz/services> respectively;

**Initial Subscription Term** means the initial term of this Agreement as selected by the School at the time of registration;

**Intellectual Property Rights** means any patent, trade mark, service mark, copyright, moral right, right in a design, know-how and any other intellectual property rights, whether registered, in the course of being registered or unregistered and any analogous rights worldwide;

**Normal Business Hours** means 9.00am to 5.00pm local New Zealand Standard Time, each Business Day;

**Privacy Policy** means the SchoolTalk Privacy Policy;

**Professional Services** means any customisation, training, consultancy and other services as agreed to be provided to the School by Te Kete Hono-SchoolTalk from time to time (which may include Te Kete Hono-SchoolTalk synchronising user details from the School's current Google Classroom system with the Subscription Services);

**Professional Services Fee** means the fee for Professional Services, as set out on the Services Page;

**Renewal Period** means the period described in clause 11.1;

**School Data** means:

(a) content that Authorised Users have provided for use with the Subscription Services including progressions (i.e. area/level structure, intentions and resources), learning plans created by the teachers, and any student work captured by teachers and/or students as part of learning plans; and

(b) any other data inputted by Authorised Users or Te Kete Hono-SchoolTalk on Authorised Users' behalf for the purpose of using the Subscription Services or facilitating the Authorised Users' use of the Subscription Services;

**Services** means the Subscription Services, Support Services and Professional Services;

**Software** means the SchoolTalk learning platform software, and the SchoolTalk web application, made available to the School at such URLs specified by Te Kete Hono-SchoolTalk from time to time;

**Subscription Fee** means the subscription fee payable by the School to Te Kete Hono-SchoolTalk for the access and use of the Subscription Services by Authorised Users, as set out on the Pricing Page;

**Subscription Services** means the subscription services provided by Te Kete Hono-SchoolTalk to Authorised Users under this Agreement that allow access to the Software;

**Subscription Term** means has the meaning given in clause 11.1;

**Support Services** means the support services that Te Kete Hono-SchoolTalk will provide in relation to the Subscription Services, as set out in Schedule 1;

**Support Fee** means the fee payable by the School to Te Kete Hono-SchoolTalk for the provision of Support Services, as set out on the Services Page;

**Terms of Use** means the SchoolTalk Terms of Use;

Third Party Provider has the meaning set out in clause 10.2(a);

**Virus** means any thing or device (including any software, code, file or program) which may:

(a) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device;

(b) prevent, impair or otherwise adversely affect access to or the operation of any program or data, including the reliability of any program or data (whether by rearranging, altering or erasing the program or data in whole or part or otherwise); or

(c) adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.2 If there is any inconsistency between any provision set out in the following sections (each a Section):

(a) this Agreement (excluding the Schedules);

(b) the Schedules;

(c) the Terms of Use;

(d) the Privacy Policy; and/or

(e) the Code of Conduct

the provision in the Section that is higher up in the order above will take precedence to the extent of any inconsistency unless the provision in the Section that is lower down in the order is expressly stated to override the provision in the Section that is higher up in the order.

## **2. Access**

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2.1 Te Kete Hono-SchoolTalk grants to the School a non-exclusive, non-transferable right to permit the Authorised Users to access and use the Subscription Services and the Documentation during the Subscription

Term solely to assist in providing education to students attending the School, all on the terms and conditions set out in this Agreement.

2.2 The School will:

- (a) appoint Administrators who are authorised to manage the School's account with Te Kete Hono-SchoolTalk, and may access and use the Administration Portal;
- (b) ensure that only the Authorised Users access and use the Subscription Services and the Documentation;
- (c) procure that the Authorised Users keep secure logins and passwords for their access and use of the Subscription Services and Documentation and keep such logins and passwords confidential;
- (d) procure that all Authorised Users comply with the Terms of Use, Privacy Policy, and the Code of Conduct (where applicable);
- (e) permit Te Kete Hono-SchoolTalk to audit the Subscription Services in order to establish whether the Subscription Services are being used in accordance with this Agreement;
- (f) promptly disable any login account if Te Kete Hono-SchoolTalk discovers (through undertaking the audits referred to in clause 2.2(e)) that any login details have been provided to any party that is not an Authorised User; and
- (g) on demand, pay to Te Kete Hono-SchoolTalk an amount of any underpayment of Subscription Fees discovered by Te Kete Hono-SchoolTalk through undertaking the audits referred to in clause 2.2(e).

### **3. Change in Authorised Users**

3.1 The School may, through its Administrators, access the Administration Portal, to change the number and details of Authorised Users that are permitted to access and use the Subscription Services. Te Kete Hono-SchoolTalk will grant access to the Subscription Services and the Documentation to such additional or fewer Authorised Users in accordance with the provisions of this Agreement.

3.2 If the School adds Authorised Users Te Kete Hono-SchoolTalk may charge additional Subscription Fees (if any) for those additional Authorised Users.

3.3 The School will be responsible for any errors or omissions made by an Administrator through the use of the Administration Portal, including granting access to a person who should not be an Authorised User, or granting access to an Authorised User to parts of the Subscription Services that that Authorised User should not have access to.

### **4. Services**

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4.1 Te Kete Hono-SchoolTalk will, during the Subscription Term, provide the Subscription Services and make available the Documentation to the School on and subject to the terms of this Agreement.

4.2 Te Kete Hono-SchoolTalk will provide the School with Support Services during Normal Business Hours. The School will procure any other Authorised User that requires Support Services to request such services through the School. Te Kete Hono-SchoolTalk may change the Support Services in its sole and absolute discretion from time to time.

4.3 Te Kete Hono-SchoolTalk will provide the Professional Services as agreed between the School and Te Kete Hono-SchoolTalk. So that Te Kete Hono-SchoolTalk can provide the Professional Services (if any), the School will cooperate with Te Kete Hono-SchoolTalk and provide Te Kete Hono-SchoolTalk with all relevant information reasonably requested by Te Kete Hono-SchoolTalk. If the School fails to cooperate with Te Kete Hono-SchoolTalk and/or provide the information requested by Te Kete Hono-SchoolTalk (collectively, a School Failure), then Te Kete Hono-SchoolTalk will not be liable for any failure to perform its obligations under this Agreement to the extent such failure arises out of or is in connection with the School Failure. All expenses properly incurred by Te Kete Hono-SchoolTalk in connection with the Professional Services will be reimbursed as an additional charge, unless incorporated in the Professional Services Fee.

4.4 The School acknowledges that Te Kete Hono-SchoolTalk regularly upgrades and updates the Subscription Services and that the Subscription Services are continually evolving. Some of these changes will occur automatically, while others may require the School to schedule and implement the changes. The School will, where required, upgrade its software and/or equipment in order to make efficient use of the Subscription Services. Te Kete Hono-SchoolTalk will provide the School with reasonable notice of any such changes.

## **5. School Data**

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5.1 Te Kete Hono-SchoolTalk acknowledges and agrees that the School and the other Authorised Users will own all rights, title and interest in and to all of the School Data and will have sole responsibility for the legality, reliability, integrity, accuracy and quality of the School Data.

5.2 Each party will take appropriate technical and organisational measures against unauthorised or unlawful processing of the School Data or its accidental loss, destruction or damage and Te Kete Hono-SchoolTalk will, as part of these measures, use reasonable endeavours to back-up School Data on a regular basis. The School acknowledges that if there is any loss or damage to School Data, the School's sole and exclusive remedy will be for Te Kete Hono-SchoolTalk to use reasonable commercial endeavours to restore the lost or damaged School Data from the latest back-up of such School Data maintained by Te Kete Hono-SchoolTalk. Te Kete Hono-SchoolTalk will not be responsible for any loss, destruction, alteration or disclosure of School Data caused by any third party.

5.3 The School acknowledges and agrees, and the School will procure that other Authorised Users acknowledge and agree, that Te Kete Hono-SchoolTalk may use the School Data in accordance with the Terms of Use and Privacy Policy.

## **6. School's Obligations**

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6.1 The School will:

- (a) provide Te Kete Hono-SchoolTalk with all necessary cooperation in relation to this Agreement, and all necessary access to such information as may be required by Te Kete Hono-SchoolTalk, so that Te Kete Hono-SchoolTalk can provide the Services including but not limited to School Data, security access information and configuration services;
- (b) comply with all applicable laws and regulations with respect to its activities under this Agreement;
- (c) carry out all other School responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the School's provision of such assistance as agreed by the parties, Te Kete Hono-SchoolTalk may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (d) ensure that the Authorised Users use the Subscription Services and the Documentation in accordance with the Terms of Use, Privacy Policy, and Code of Conduct (where applicable);
- (e) be responsible for all acts and omissions of the other Authorised Users as if those acts and omissions are those of the School. School will indemnify Te Kete Hono-SchoolTalk against all costs, losses, damages and expenses arising out of or in connection with the Authorised Users' use of the Subscription Services;
- (f) ensure that its network and systems comply with the relevant specifications as may be specified by Te Kete Hono-SchoolTalk from time to time; and
- (g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Te Kete Hono-SchoolTalk's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the School's network connections or telecommunications links or caused by the internet.

## **7. Charges and Payment**

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7.1 The School will pay the Fees to Te Kete Hono-SchoolTalk in accordance with this clause 7.

7.2 Te Kete Hono-SchoolTalk will invoice the School for the Fees. The School will pay each invoice issued by Te Kete Hono-SchoolTalk under this Agreement by the 20<sup>th</sup> of the month following the month of the invoice.

7.3 If the School fails to pay any invoice when due then without prejudice to any other rights and remedies of Te Kete Hono-SchoolTalk:

- (a) Te Kete Hono-SchoolTalk may, without liability to the School or any other Authorised User:
  - (i) disable access to all or part of the Subscription Services; and/or
  - (ii) cease to provide any of the Support Services and/or Professional Services, and Te Kete Hono-SchoolTalk will be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and/or

(b) interest will accrue on such due amounts at an annual rate equal to 2% over the then current base overdraft rate of Te Kete Hono-SchoolTalk's bankers calculated from the due date until the date the amount is paid in full.

7.4 All amounts and Fees stated or referred to in this Agreement are:

(a) exclusive of GST (if any); and

(b) unless otherwise stated, specified in New Zealand dollars.

7.5 Te Kete Hono-SchoolTalk may increase any of the Fees upon 60 days' prior written notice to the School.

## **8. Intellectual Property Rights**

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8.1 The School acknowledges and agrees that Te Kete Hono-SchoolTalk and/or its licensors own all Intellectual Property Rights:

(a) in the Software (including all customisations, modifications, enhancements and developments);

(b) in, or created during the performance of, the Services; and

(c) in the Documentation. Except as expressly stated in this Agreement, this Agreement does not grant the School any rights to, or in, the Intellectual Property Rights, or any other rights or licences in respect of the Services or the Documentation.

## **9. Confidentiality**

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9.1 Each party will treat as confidential all information obtained from the other pursuant to this Agreement. Neither party will divulge such information to any persons (except to their employees (for whom that party will be responsible) and then only to those employees who need to know) without the other party's prior written consent.

9.2 In relation to either party, confidential information means any information relating to the business or affairs of that party and includes, without limitation, its designs, drawings, manufacturing know how, object code, source code, planned modifications to hardware or software, planned enhancements to hardware or software, product knowledge, quality standards, research and development, unpublished specifications, technical information, pricing, manipulated data, business plans, business processes, methodologies, techniques, general know-how, costs and margins, customer lists, financial data, internal price information, market research, marketing plans, sales forecasts and trade secrets.

9.3 Clauses 9.1 and 9.2 do not extend to information which:

(a) can be established by written records to be already known to the recipient at the time of disclosure;  
or

(b) which is in or enters the public domain through no fault of the recipient.

9.4 If the recipient of any confidential information is required by any applicable law, court or authority to disclose such confidential information to any person, it will:

(a) give the disclosing party prompt written notice of the disclosure, where practicable before it occurs, so that the disclosing party has sufficient opportunity to prevent the disclosure through appropriate legal means;

(b) disclose only that part of the confidential information which the recipient's legal advisers consider is legally required to be disclosed; and

(c) use all reasonable endeavours to obtain an assurance that the confidential information disclosed will be treated confidentially by the recipient.

9.5 Each party will on demand and, in any event, on termination of this Agreement, deliver to the other party all confidential information and any other document supplied by or obtained from the other party.

9.6 This clause 9 will survive termination of this Agreement.

## **10. Warranties and Liability**

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10.1 The School acknowledges that, except for those warranties or representations that cannot be excluded by law (including under the Consumer Guarantees Act 1993 and Fair Trading Act 1986), the Services are provided on an "as is" basis and all representations, conditions or warranties in respect of the Services (whether express or implied, statutory or otherwise, and including warranties of merchantability and fitness for a particular purpose) are expressly excluded.

10.2 The School acknowledges that:

(a) Te Kete Hono-SchoolTalk may rely on the provision of services by third parties (including data centre, telecommunications and outsourcing providers) in order to provide the Services (Third Party Providers) and that the Services may be subject to limitations, delays and other problems inherent in the use of such services provided by Third Party Providers. Te Kete Hono-SchoolTalk, will where commercially feasible and practically available, use reputable Third Party Providers to provide such services; and

(b) Te Kete Hono-SchoolTalk will not be responsible for any delays, delivery failures, or any other loss or damage arising out of or is in connection with any services provided by Third Party Providers, including any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet.

10.3 The School will indemnify Te Kete Hono-SchoolTalk against all costs, losses, expenses and damages incurred through any claims against Te Kete Hono-SchoolTalk resulting from the use of the Services and the Documentation by the School and other Authorised Users.

10.4 Except for a breach by either party of its confidentiality obligations or an infringement by the School of Te Kete Hono-SchoolTalk's Intellectual Property Rights:



(a) neither party will be liable to the other party for loss of profits, loss of revenue, loss of data, or any indirect, consequential or special loss or damage suffered or incurred by the other party as a result of anything done by the first party under this Agreement; and

(b) Te Kete Hono-SchoolTalk's liability arising out of all claims for loss or damage under this Agreement will not exceed in aggregate an amount equal to the Fees actually paid by the School to Te Kete Hono-SchoolTalk in the first 12 months of the Subscription Term.

10.5 The School acknowledges and agrees that no Authorised User (other than the School) may make a claim in relation to this Agreement provided that where any Authorised User suffers any loss or damage which, if suffered by the School, would be recoverable from Te Kete Hono-SchoolTalk then the School may make that claim on the Authorised User's behalf. The School will indemnify Te Kete Hono-SchoolTalk against any claims made by any Authorised User in relation to this Agreement.

## 11. Term and Termination

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11.1 This Agreement will, unless otherwise terminated as provided in this clause 11.1, commence on the Effective Date and will continue for the Initial Subscription Term and, thereafter, this Agreement will be automatically renewed for successive periods of 3 months (each a **Renewal Period**), unless:

(a) either party notifies the other party of termination, in writing, at least 90 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Agreement will terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or

(b) otherwise terminated in accordance with the provisions of this Agreement, and the Initial Subscription Term together with any subsequent Renewal Periods will constitute the **Subscription Term**.

11.2 Either party may terminate this Agreement if the other party:

(a) is in material breach of this Agreement and fails to remedy such breach within 30 days of receiving notice from the other party specifying the breach and requiring it to be remedied; or

(b) goes into liquidation or has a receiver or statutory manager appointed of any of its assets, becomes insolvent or makes any arrangement with creditors.

11.3 On termination of this Agreement for any reason:

(a) all licences and other rights granted under this Agreement will immediately terminate;

(b) each party will return, and make no further use of, any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;

(c) Te Kete Hono-SchoolTalk may destroy or otherwise dispose of any of the School Data in its possession unless Te Kete Hono-SchoolTalk receives, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to the School of the then most recent back-up of the School Data. Te Kete Hono-SchoolTalk will use reasonable commercial endeavours to deliver the back-up to the School within 30 days of its receipt of such a written request,

provided that the School has, at that time, paid all Fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The School will pay all reasonable expenses incurred by Te Kete Hono-SchoolTalk in returning or disposing of School Data; and

(d) the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, will not be affected or prejudiced.

## **12. Demonstration Access**

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12.1 If the School has registered to use the Subscription Services on a demonstration basis then, notwithstanding anything to the contrary in this Agreement, the parties agree the following clauses apply.

12.2 The School acknowledges and agrees that the rights granted under clause 2.1 are restricted to allow the School to assess the suitability of the Subscription Services for the School.

12.3 The parties acknowledge and agree that, for the purposes of clause 11.1, following the Initial Subscription Term, the Agreement will not be automatically renewed. If the School wishes to use the Subscription Services, it will need to register to use the full version of the Subscription Services.

12.4 The School acknowledges and agrees that:

(a) the Subscription Services contain Demonstration Data to demonstrate how the Subscription Services may be used, and that no specific result or outcome is guaranteed from the use of the Subscription Services, including from the input of any School Data into the Subscription Services. For the purposes of this clause, "Demonstration Data" means demonstration content or other data included in the Subscription Services by Te Kete Hono-SchoolTalk or its licensors, including progressions (i.e. area/level structure, intentions and resources), learning plans created by the teachers, and any student work captured by teachers and/or students as part of learning plans;

(b) it will not use the Demonstration Data independently of the Subscription Services; and

(c) Te Kete Hono-SchoolTalk and/or its licensors own all Intellectual Property Rights in the Demonstration Data.

12.5 The School acknowledges and agrees that Te Kete Hono-SchoolTalk will not provide Support Services or Professional Services unless otherwise agreed between the parties.

12.6 The School acknowledges and agrees that clause 5.2 does not apply.

12.7 On termination of this Agreement for any reason:

(a) Te Kete Hono-SchoolTalk may destroy or otherwise dispose of any of the School Data and/or Demonstration Data in its possession;

(b) the School will not be permitted to retrieve any School Data.

## **13. Sub-contracting**

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13.1 Te Kete Hono-SchoolTalk may subcontract any of its obligations under this Agreement without obtaining the School's prior written consent.

13.2 If Te Kete Hono-SchoolTalk uses a subcontractor, Te Kete Hono-SchoolTalk is not relieved of any of its liabilities or obligations under this Agreement.

#### **14. Disputes**

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14.1 If a dispute arises out of or relates to this Agreement (Dispute), a party may not commence any court or arbitration proceedings relating to the Dispute unless it has complied with the following paragraphs of this clause, except where the party seeks urgent interlocutory relief.

14.2 A party claiming the Dispute has arisen must give written notice to the other party specifying the nature of the Dispute.

14.3 On receipt of that notice, the parties will use all reasonable endeavours to resolve the Dispute by discussion, consultation, negotiation or other informal means.

14.4 If the Dispute is not resolved within 15 Business Days of the notice being given pursuant to clause 14.2 (or within such further period agreed in writing by the parties), either party may, by giving written notice to the other party, require the Dispute to be determined by the arbitration of a single arbitrator. The arbitrator will be appointed by the parties or, failing agreement within five Business Days of the notice requiring arbitration, by the President of the New Zealand Law Society on application of either party. The arbitration will be conducted as soon as possible and in accordance with the provisions of the Arbitration Act 1996.

#### **15. Force Majeure**

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Te Kete Hono-SchoolTalk will have no liability to the School under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Te Kete Hono-SchoolTalk or any other party), failure of a utility service or transport or telecommunications network or service of a Third Party Provider, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors, provided that the School is notified of such an event and its expected duration.

#### **16. General**

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16.1 This Agreement constitutes the entire agreement of the parties about its subject matter and supersedes any previous understanding or agreements on that subject matter.

16.2 This Agreement will not be deemed to create a partnership, joint venture or agency relationship of any kind between the parties.

16.3 If any part or a provision of this Agreement is judged invalid or unenforceable in a jurisdiction it is severed for that jurisdiction and the remainder of this Agreement will continue to operate.

16.4 A provision or a right under this Agreement may not be waived except in writing signed by the party granting the waiver.

16.5 A party may exercise a right, power or remedy under this Agreement at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a party under this Agreement does not prevent a further exercise of that or of any other right, power or remedy.

16.6 The School will not, and will procure that other Authorised Users will not, assign, transfer or otherwise deal with this Agreement or any of its rights or obligations under this Agreement, whether in whole or in part, without the prior written consent of Te Kete Hono-SchoolTalk.

16.7 Notices and other communications under this Agreement are to be given in writing by email, facsimile, personal delivery or by post and must be:

(a) sent to the correct email, facsimile number or address designated in writing by each party for that purpose from time to time; and

(b) marked for the attention of the designated person or office holder (if any).

16.8 A notice or communication in relation to this Agreement will be deemed to be received:

(a) in the case of a letter, on the third Business Day after posting;

(b) in the case of email, on the Business Day on which the email is successfully delivered;

(c) in the case of a facsimile, on the Business Day on which it is dispatched or, if dispatched after 5.00p.m. (in the place of receipt) on the next Business Day after the date of dispatch; and

(d) in the case of personal delivery, when delivered.

16.9 This Agreement will be governed by and construed in accordance with the laws of New Zealand.

## **Schedule 1 – Support Services**

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1. For the purposes of this Schedule 1:

**Fault** means a failure of the Subscription Service to function substantially as described in the Documentation;

**Fault Classification** means the classifications specified in the table below:

Fault Classification	Description
<b>Priority 1</b>	The Subscription Service is down or unavailable. The Subscription Service is inoperable, seriously impacted or data is lost or destroyed.
<b>Priority 2</b>	Performance or availability is critically degraded, with major disruption to operation. A Subscription Service feature is inoperable or the Subscription Service is severely restricted in its use.
<b>Priority 3</b>	Performance or availability is non-critically degraded, with minor disruption to operation.
<b>Priority 4</b>	A minor problem causing minimal disruption to operation.

**Support Services** means:

- (a) advice on operating the Subscription Service;
- (b) other advice as may be reasonably required by the School to obtain the full benefit and use of the Subscription Service;
- (c) the investigation and diagnosis of Faults;
- (d) the repair and correction of Faults.

2. Te Kete Hono-SchoolTalk will provide the Support Services by e-mail or telephone during Normal Business Hours during the relevant school term.

3. The Support Services do not include services provided by Te Kete Hono-SchoolTalk relating to or resulting from:

- (a) time travelling to the School's site where the Subscription Services are being used;
- (b) misuse of the Subscription Services or failure to use the Subscription Services in accordance with the Documentation or this Agreement;
- (c) unauthorised attempts to repair, replace, modify or maintain the Subscription Services by persons other than Te Kete Hono-SchoolTalk;
- (d) support provided outside Normal Business Hours;
- (e) fluctuations in external power supplies or faults in communications networks;
- (f) failure by the School to operate the Subscription Services in accordance with any environmental conditions specified by Te Kete Hono-SchoolTalk.

4. The School will:

(a) promptly report to Te Kete Hono-SchoolTalk all Faults which the School discovers;

(b) ensure that:

(i) a system administrator is available to be the prime point of contact with Te Kete Hono-SchoolTalk in the event of any Faults or queries;

(ii) the system administrator has a good understanding of the Subscription Services and its operation;

(c) make all reasonable efforts at investigation and diagnosis of Faults before contacting Te Kete Hono-SchoolTalk;

(d) maintain a list of all Subscription Services problems to assist with the diagnosis and resolution of Faults;

(e) when notifying Te Kete Hono-SchoolTalk of Faults, correctly classify the nature and severity of the Fault in accordance with the Fault Classifications.