

END USER LICENCE AGREEMENT / Terms and Conditions

Parties and Purpose

1. The parties to this Agreement are the Owner and the End User.
2. This Agreement governs access to and the use of the Website and the Underlying Systems.
3. The Website and Underlying Systems' purpose is to support the management and conduct of school board Elections in New Zealand.
4. By accessing and/or using the Website and/or Underlying Systems You agree to be bound by the terms and conditions of this Agreement; and where Your access and use is on behalf of another person (e.g. a School Board), You confirm that You are authorised to, and do in fact, agree to this Agreement on that person's behalf and, by agreeing to them on that person's behalf, that person is also bound by them.

Definitions

5. In this Agreement the following capitalised terms shall have the following meanings:
 "Agreement" means this End User Licence Agreement;
 "Election" means a school Board election in terms of the Education and Training Act 2020 and the Education (Board Elections) Regulations 2000 and any amending legislation thereto;
 "Election Data" means the data generated by the End User or the voters in an Election and as captured and/or processed by the Website and/or Underlying Systems;
 "Electoral Roll" means those persons who are entitled to vote in each parent representative, staff representative or student representative election according to the regulations that apply for the election;
 "Intellectual Property" means copyright and all rights existing anywhere in the world conferred under statute, common law or equity relating to inventions (including patents), registered and unregistered trademarks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity. "Intellectual Property Rights" has a consistent meaning, and includes any enhancement, modification or derivative work of the Intellectual Property;
 "Licence" means the non-exclusive, non-transferable right to use the Website and the Underlying Systems to conduct school elections;
 "Licence Fee" means the fee payable in accordance with paragraphs 13 and 14;
 "Owner" means Education Plus Auckland Limited;
 "Parent Electoral Roll" means the parents or caregivers of students at a school entitled to vote for parent representatives according to the regulations that apply for the election, or their total number;
 "Staff Electoral Roll" means the school employees entitled to vote for the staff representative according to the regulations that apply for the election, or their total number;
 "Student Electoral Roll" means the students enrolled at the school who are entitled to vote for the student representative according to the regulations that apply for the election, or their total number;
 "Underlying Systems" means the documents, IT solutions, systems and networks (including software and hardware) used to provide the Website, including any third party solutions, systems and networks;
 "Website" means the cloud-based website and dashboard located at <https://www.myschoolelection.nz>;
 "User" means a person entitled to use the Website and/or Underlying Systems;
 "You", "Your" and/or "the End User" means the Returning Officer and/or the School Board of Trustees using the Website and the Underlying Systems.

Licensing of Use:

6. Subject to the payment of the applicable Licence Fee, and subject to the terms and conditions of this Agreement, the Owner grants You a non-exclusive, non-transferable Licence to use the Website and the Underlying Systems to conduct Elections.
7. Each Election you conduct will be subject to a fee based on the Electoral Roll.
8. You may access and use the Website on any single-user desktop or mobile device and/or within a multi-user or networked environment and in accordance with the terms and conditions of this Agreement.

9. All information used in the conduct of an Election is owned by You.
10. The Website and Underlying Systems are subject to our Privacy Policy, which applies to You and all other users.
11. The Owner retains all property rights in the Website and the Underlying Systems, including any Intellectual Property contained therein.

Term:

12. This Licence is valid for the conduct and management of each Election, from the date of payment of the relevant Licence Fee until the Election result has been declared and all other administrative tasks associated with the Election have been completed.

Licence Fee:

13. The Licence Fee shall be calculated from the Electoral Roll and in accordance with the fee calculator available on the Website; or as set out on the Website; or as agreed with You in writing; and as updated and/or amended by the Owner from time to time.
14. The Licence Fee shall be payable in advance, subject to any adjustments notified to You in writing on the Website from time to time.

Termination of Use

15. If any violation of the terms and conditions of this Agreement occurs, the Agreement may be terminated, the Licence revoked, and access to the Website and Underlying Systems removed, at the Owner's sole discretion and without notice to You.

Restrictions of Use

16. The License does not permit You to decompile, reverse engineer, disassemble, attempt to derive the source code of, or decrypt the Website and/or Underlying Systems; to make any modification, adaptation, improvement or enhancement of the Website and/or Underlying Systems; or to use the Website and/or Underlying Systems for creating any other product or service.
17. The Owner retains all rights to the Intellectual Property and any other rights not otherwise expressly agreed in this Agreement.
18. You may not use or amend the Website and/or Underlying Systems or otherwise cause them to send automated queries or any unsolicited email.
19. You may not use the Website and/or Underlying Systems, or attempt to use them, to access information from other Users without their knowledge or without their express permission.
20. You may not modify, copy, reproduce, upload, post, transmit or distribute in any way any material from the Website and/or Underlying Systems including code and software.
21. The Owner grants You permission to establish a link to the Website for the purposes of any Election for the duration of the Election. You must obtain written permission from the Owner for any other links outside the Election period.

Warranty Disclaimer

22. The Owner has applied to become an accredited provider of online election services for school board Elections in New Zealand.
23. The Owner makes no warranty in relation to the Website and/or the Underlying Systems except as a Ministry of Education accredited provider of online election services (subject to paragraph 22). The Owner

disclaims all other warranties, whether express, implied, or statutory, that the Website will be error-free or free from interruptions or other failures of service or that the software will meet Your requirements, be accurate, delivered in a timely manner and not infringe third-party rights. Notwithstanding the above, the Owner welcomes feedback on design that supports fitness for purpose, accuracy, efficiency and timeliness and compliance with statutory requirements.

Limitation of Liability

24. The Owner is not liable to You for (a) loss of profits; (b) loss of data; (c) loss of use; (d) loss of income; (e) punitive, exemplary, indirect, special, incidental, or consequential damages arising from the use of the Website and/or Underlying Systems.
25. In no event will any liability exceed the Licence Fee paid.

Intellectual Property Rights

26. Title to, and all Intellectual Property Rights in, the Website and the Underlying Systems is and remains the property of the Owner (and its licensors, if any). You must not contest or dispute that ownership, or the validity of those Intellectual Property Rights.
27. Title to, and all Intellectual Property Rights in, the Election Data (as between the parties) remains Your property. You grant the Owner a worldwide, non-exclusive, fully paid up, transferable, irrevocable licence to use, store, copy, modify, make available and communicate the Election Data for any purpose in connection with the exercise of its rights and performance of its obligations in accordance with this Agreement.

Contact Information

28. Education Plus Auckland Limited (www.eduplus.co.nz) is the owner of the <https://www.myschoolelection.nz> Website. We may be contacted at PO Box 251357, Pakuranga, Auckland 2140, New Zealand; or by emailing us at Helpdesk@myschoolelection.nz or by phoning 0274 411 365.

General

29. **Assignment:** This Agreement shall inure solely to the benefit of, and shall be binding upon the parties and their respective successors and assigns, provided however, that no party may assign its rights or obligations hereunder unless it shall have first received the written consent of the other party/parties, which consent may be withheld at such party's/parties' reasonable discretion.
30. **Applicable Law:** This Agreement shall be governed and construed in accordance with the Laws of New Zealand and the Parties hereto expressly submit to the exclusive jurisdiction of the Courts of New Zealand.
31. **Headings:** Headings shall be a guide only and shall have no meaning for the purposes of interpretation of this Agreement.

