



PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") by and between **Hernando County Public Schools** ("District") and **FACTS Education Solutions, LLC**. ("Company") (each individually a "Party" and, collectively, the "Parties") is entered into as of the last signature date affixed hereto ("Effective Date") and shall be as follows:

1. **SERVICES AND SCOPE:** This Agreement sets forth general provisions under which the Company will provide certain educational programming and other Services utilizing funds ("Title Funds") under Titles I, II, and IV of the Every Student Succeeds Act ("ESSA") to the District and/or the District's affiliated schools (each a "Participating Entity" and, collectively, "Participating Entities") pursuant to the Schedule of Services and all terms and conditions, attachments, exhibits, and addenda (each, an "Attachment" and, collectively, the "Attachments") hereto, which are hereby incorporated into this Agreement by this reference (each a "Service" and, collectively, the "Services"). Any additional services requested by a Participating Entity beyond the Services contemplated by this Agreement shall be procured by the Participating Entity at its own separate and additional expense, but shall otherwise, as applicable, be subject to the terms and conditions of this Agreement.

In providing the Services, the Company shall comply with all requirements under Title I of the Elementary and Secondary Education Act., 20 U.S.C. § 6301 *et. seq.*, as amended, and corresponding regulations, 34 C.F.R. Part 200, applicable to the Services. The Company shall recruit, retain or employ, compensate, train, evaluate, supervise, and, if necessary, discipline and/or discharge the personnel performing the Services under this Agreement. Neither the Company nor any personnel of the Company shall be considered an employee of the District or any Participating Entity for any purpose. All personnel of the Company shall be qualified and appropriately licensed to perform the Services, and shall perform the Services in accordance with the standards of their respective professions. The Company shall ensure that all personnel performing Services under this Agreement have been subjected to satisfactory criminal background checks and child and dependent adult abuse and sexual registry background checks in accordance with the District's procedures prior to performing the Services.

The District and the Participating Entity receiving the Services will, as applicable, select children and/or educators or other professionals to receive the Services consistent with ESSA and other law. The Services provided to Participating Entities shall be under the control and supervision of the District, and the Company shall deliver the Services in accordance with the direction of the District. The District may request to observe the Company's delivery of the Services at the Participating Entities' premises at any time they are being provided, and the Company shall make reasonable efforts to accommodate such requests. The Company shall make reasonable efforts to respond to questions and provide other information regarding the Services as reasonably requested from time to time by the District.

2. **REQUESTING SERVICES:** The Services and fees contracted as of the date of this Agreement are outlined in the applicable Attachments. At any time, a completed Schedule of Services for a Participating Entity will be sufficient to incorporate the requested Services into this Agreement.

3. **PARTICIPATION OF SCHOOL DISTRICT'S AFFILIATED SCHOOLS:**

Participating Entities may choose to receive Services under in this Agreement. Any Participating Entity wishing to receive Services pursuant to this Agreement must obtain prior written authorization from the Company by completing a Schedule of Services. By completing a Schedule of Services and obtaining Company's written authorization to provide the Services to such Participating Entity, this Agreement may be extended to the Participating Entity, allowing it to procure Services in accordance with the Agreement's terms. A Participating Entity that elects to procure Services under this Agreement agrees that it shall be bound by the terms and conditions herein to the same extent as the District.

District agrees that a Participating Entity may, in its discretion, procure additional Services beyond those provided for by this Agreement, including any Work Orders or other Attachments hereto, including without limitation by (a) extending Services beyond

the originally agreed period, and/or (b) purchasing additional Services from the Company independent of the District or this Agreement; *provided, however* that any such extended or additional Services beyond the scope of this Agreement will be subject to one or more separate agreements between the Company and the applicable Participating Entity, and that payment for such extended or additional Services will not be made using Title Funds, and will instead be owed directly by the Participating Entity to the Company. Such agreements for extended or additional Services beyond the scope of this Agreement shall be exclusively between the Participating Entity and the Company.

4. **CHANGES TO SERVICES:** The Company is responsible for promptly informing the District of any factors that may materially impede the provision of Services or performance under this Agreement. If such circumstances arise, rendering it unfeasible for the Company to meet its obligations herein, the Company may terminate this Agreement without penalty, provided it issues thirty (30) days' prior written notice to the District. The Company shall provide written notification to the District ("Change Notice") of any alterations or reduction of Services which are necessitated by such factors. The District, upon receiving a Change Notice, has fifteen (15) calendar days to submit a written objection ("Change Objection Notice") in good faith, outlining the reasons for objection. Subsequently, the Parties shall engage in good faith discussions during a fifteen (15) calendar day period, known as the "Change Negotiation Period," to strive for a reasonable solution acceptable to the Parties. Should no such agreement be reached, the District reserves the right to terminate this Agreement without penalty, provided written notice is given no later than fifteen (15) calendar days following the final day of the Change Negotiation Period. Failure to submit a Change Objection Notice within the specified timeframe implies acceptance of the changes outlined in the Change Notice, thereby forfeiting the District's right to terminate the Agreement based on said changes.

In addition, the District must promptly notify the Company of any reductions in current academic year allocation that may impact the execution of this Agreement. In the event of a change in the availability of Title funds, the District must convene a meeting within sixty (60) days involving the Company's designated representative and administration for the Participating Entity to encourage seamless continuity and effective collaboration.

5. **TERM, RENEWAL, AND TERMINATION:** This Agreement will be effective as of the Effective Date. Unless terminated sooner pursuant to the terms of this Agreement, the termination date of this Agreement will be June 30, 2026. The Agreement will renew for successive one (1) year terms ("Renewal Terms") thereafter if the District gives at least sixty (60) days' written notice of its intent to renew the Agreement prior to the expiration of the Initial Term or the Renewal Term, as applicable. Following the Initial Term, either Party may terminate the Agreement, in writing, ninety (90) calendar days in advance of the scheduled termination or renewal date.

6. **PAYMENT TERMS:**

- a. **Amount:** The amount of this contract will be equal to the sum of the purchase orders issued for Services by the District.
- b. **Funding:** The funding for Services provided under this Agreement shall be determined annually based on the amount appropriated to the District by the U.S. Department of Education and/or related funding sources for the Services. No expenditures or transfers of Title Funds appropriated to the District may be made until the amount of funding available for the Services is determined. The amount of Title Funds available shall be determined and communicated to the Company on or about June 30th of each year this Agreement remains in effect. In accordance with law, the District shall reserve a portion of the Title Funds for administrative costs. The remaining amount of Title Funds shall be allocated to the Services. In the event that the funds are not appropriated or are otherwise unavailable, the Company reserves the right to terminate the Agreement upon written notice to the District. Said termination shall not be deemed a breach of the Agreement. Upon receipt of the written notice, the Company shall cease all work associated with the Agreement. Should such an event occur, Company is entitled to compensation for all goods and services delivered as of the termination date.
- c. **Payment Schedule:** Fees owed to the Company shall be paid on a monthly basis as actual Services are rendered by Company. Company shall submit an invoice to the District for actual Services provided in the prior month, and each invoice shall be due and payable by the District thirty (30) days after receipt of such invoice from Company.

7. **DEFAULT:**

- a. **Payment:** In the event that payment owed by the District becomes more than ninety (90) calendar days past due, the Company may, at its sole option and discretion, elect to terminate this Agreement.
- b. **Material Breach:** If either Party refuses or fails to perform any material obligation under this Agreement (a “Breach”), and fails or refuses to correct the Breach within thirty (30) calendar days after receipt of written notice of the Breach from the nonbreaching Party, the nonbreaching Party may terminate this Agreement by sending an additional written notice stating the effective date of termination.
- c. **Insolvency.** Either Party may terminate this Agreement immediately upon written notice to the other Party if the other Party becomes the subject of a proceeding under state or federal law for relief of debtors or if an assignment is made for the benefit of creditors, or if the District does not receive the Title Funds needed to pay for the Services.

8. **CONFIDENTIAL BUSINESS INFORMATION:** During the term of this Agreement and for three (3) years after termination or expiration of this Agreement, each Party agrees not to disclose Confidential Information obtained from the other Party to any person or entity. As used herein, “Confidential Information” means information that is identified (orally or in writing) as confidential or is of such a nature that a reasonable person would understand such information to be confidential. Confidential Information shall not include information: 1) generally known to the public; 2) already known, through legal means, to the Party receiving the information; 3) legally obtained from a third-party; or 4) independently developed by a Party without use of the other Party’s Confidential Information. Notwithstanding anything to the contrary herein, the Parties may disclose Confidential Information which is required to be disclosed by government order, court order, or subpoena, provided that the Party making the disclosure takes reasonable means to prevent the extent of disclosure (e.g., by making the disclosure subject to a protective order). In the event that either Party is required to disclose confidential information about the other Party pursuant to a judicial or government order, such Party will, to the extent permitted by law or the applicable order, promptly notify the other Party to allow intervention in response to such order.

9. **CONFIDENTIALITY AND COMPLIANCE WITH STUDENT DATA PRIVACY LAWS:**

- a. The Parties acknowledge and agree that the Company is acting solely as a service provider to the District under this Agreement, and the District has the sole and exclusive authority to determine the purposes and means of the processing of (i) nonpublic personal information (“NPI”) as defined in Subtitle A of Title V of the Gramm-Leach Bliley Act, 15 U.S.C. §§ 6801 *et seq.*, and all implementing regulations thereof (“GLBA”) and (ii) any personally identifiable information (“PII”) contained in any education record as may be protected by the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g and the regulations promulgated thereto (“FERPA”). NPI and PII as defined under the GLBA and FERPA, respectively, are hereafter referred to collectively as “Personal Data”. Further, the District has the sole and exclusive authority and responsibility to determine the purposes of, and means of complying with, the Children’s Online Privacy Protection Act of 1998, [15 U.S.C. §§ 6501 *et seq.*](#), and all implementing regulations thereof (“COPPA”).
- b. Insofar as the provision of Services require the Company receive, process, or use students’ Personal Data, the Company’s processing and/or use of such Personal Data will, as applicable, comply with the GLBA, FERPA, and other federal and state data protection laws or regulations as may be in effect from time to time.
- c. The District agrees that it will comply with any and all privacy, Personal Data protection, and transparency-related obligations (including, without limitation, displaying any and all relevant and required privacy notices or policies) and shall have any and all required legal bases in order to collect, process, and transfer to the Company the Personal Data and to authorize the processing by the Company of the Personal Data which is authorized in this Agreement. In addition, and except as otherwise expressly agreed upon between the Parties in a writing, the District agrees, represents, and warrants that it shall be responsible for obtaining all consents required under the GLBA and FERPA and shall immediately communicate any revocation of such consents to the Company in writing.
- d. In addition, it is understood that the District will interact with the Company’s systems and access information through password-protected websites. The District agrees to protect and safeguard, and not to disclose, the user IDs, passwords or Personal Data

to any third-parties or unauthorized personnel and will notify the Company immediately in writing if an unauthorized person obtains access to them. The District will also notify the Company if a user ID and password is no longer needed by a representative of the District, or if any representative of the District has left its employee, so that the Company can deactivate and disable such person's access credentials.

- e. FERPA permits the District to disclose PII relating to students to other school officials. For the purposes of this Agreement, the District has determined that the Company, its officers, directors, employees, agents, and subcontractors providing Services under this Agreement are "other school officials" and as such, the District may disclose PII to the Company as it determines is necessary for the delivery of the Services under this Agreement. Specifically, the District has determined that the Company, its directors, officers, employees, agents, and subcontractors providing Services under this Agreement are each a "contractor" as defined by 34 CFR § 99.31(a)(1)(i)(B). All PII and Personal Data provided by the District to the Company or received or created by the Company relating to any student who participates in any activity conducted by the Company pursuant to this Agreement will belong to the District and the District will at all times have access to such information. The Company shall utilize PII and Personal Data provided by the District for the Services, as described herein, and for no other reason. Neither Party shall release any student's Personal Data or PII to any other third party without the express consent of the District. The Company agrees that all PII and Personal Data relating to any participating student or parent received from the District under this Agreement shall remain confidential and not be disclosed to any third party without the prior written consent of such student's parent(s) or legal guardian(s), as applicable.

The Company acknowledges and agrees that the District shall make the final determination whether PII is necessary to deliver the Services under the Agreement, or whether aggregate data is sufficient. The Company is and will remain under the direct control of the District with respect to use and maintenance of education records. The Company will comply fully with the requirements of 34 CFR § 99.33(a) governing use and redisclosure of PII from educational records. All disclosures of PII from an education record that is made by the District to the Company will be subject to the requirements of 34 CFR § 99.34. The Company shall not copy or otherwise remove any student Personal Data from any electronic device owned or controlled by the District or any Participating Entities without the District's prior written authorization. The Company shall, within thirty (30) days after the earlier of the expiration or termination date of this Agreement, return to the District all original Personal Data and hard copies thereof in its possession and shall also purge and delete all electronic copies thereof from its files and systems which it received from the District pursuant to this Agreement; *provided, however*, that the Company may retain any documents and materials which contain PII, NPI, and Personal Data beyond the expiration of this Agreement to the extent the Company determines, in its sole and reasonable discretion, that such retention is necessary to satisfy the Company's legal requirements, including without limitation the Company's obligation to retain documents for purposes of regulatory examinations and audits. To the extent the Company retains such materials beyond the expiration of this Agreement, it shall maintain the confidentiality and privacy of such materials, as well as the NPI, PII, and Personal Data they contain, if any, to the same degree as if the Agreement were still in effect.

10. **INDEMNIFICATION; CONTROL OF DEFENSE:** Except as provided for herein, each Party (the "Indemnifying Party") shall indemnify, defend, and hold the other Party, its designees, and its respective officers, directors, employees and agents (collectively, "Indemnified Parties") harmless from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries and deficiencies, including reasonable attorneys' fees and costs, incurred or suffered by any of the Indemnified Parties arising out of, in connection with or resulting from any third-party claim or allegation arising from negligence of the Indemnifying Party or intentional misconduct by the Indemnifying Party in the performance of this Agreement, or from a breach of the Indemnifying Party's representations and warranties under this Agreement. The Indemnifying Party shall defend the Indemnified Parties in any proceeding alleging the third-party claims or allegations listed above, at the Indemnifying Party's sole cost and expense. The Indemnifying Party will have the option to select and provide legal counsel for that defense. If the Indemnified Parties want additional counsel of its choosing, the costs and expenses of the additional counsel will be Indemnified Parties' responsibility, and the Indemnifying Party will have no obligation to pay additional counsel. The Indemnifying Party's counsel will lead, direct and manage the litigation, and will ensure the Indemnified Parties' additional counsel receives adequate information to monitor the litigation.
11. **LIMITATION OF LIABILITY; LIMITATION ON ACTIONS:** TO THE FULLEST EXTENT PERMITTED BY LAW, BUT IN NO WAY LIMITING THE COMPANY'S OBLIGATION TO REMIT ALL FUNDS COLLECTED AND DUE TO THE DISTRICT OR THE DISTRICT'S OBLIGATION TO PAY FEES TO THE COMPANY, THE AGGREGATE LIABILITY OF A

PARTY WILL BE LIMITED TO DAMAGES NOT TO EXCEED THE COMPANY'S NET REVENUE UNDER THIS AGREEMENT FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR LOSS OF DATA, LOST PROFITS, BUSINESS INTERRUPTION, OR OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, INDIRECT, OR SPECULATIVE DAMAGES ARISING FROM ANY CLAIM OR ACTION HEREUNDER WHETHER BASED IN CONTRACT, TORT, OR OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. **WARRANTY**: EXCEPT AS OTHERWISE PROVIDED HEREIN, AND SUBJECT TO APPLICABLE LAW, THE COMPANY DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS, OR ENDORSEMENTS WHATSOEVER WITH RESPECT TO THE SERVICES.
13. **OWNERSHIP**: All rights, title, and interest in and to the educational material, tests, assessments, and instructional content developed in whole or in part by the Company (collectively referred to as "Content"), including any related tools, Integration Connectors, modifications, and other technology or portions thereof, as well as the associated copyright, patent, trademark, trade secret, and all other proprietary rights therein, and any derivative works created from them (collectively, "IP Rights"), shall exclusively belong to the Company, its licensors, and contractors (as designated by the Company) from the moment of conception, creation, or fixation of any of the foregoing in a tangible medium of expression. The District explicitly acknowledges that it shall not acquire any rights or interest therein, and waives any future claim to such Content or IP Rights. All rights not expressly granted under this Agreement are reserved by the Company.
14. **CONTENT WARRANTY**: The District will be solely responsible for providing all District Content. The District will be solely responsible for ensuring the appropriateness of any data provided by the Company at the request of the District (for example, on a form created by the District, if applicable). The District grants to the Company all necessary proprietary rights and licenses in and to the District Content solely as necessary for the Company to provide the Services for the District. The District hereby represents and warrants that it will not provide District Content that: (a) infringes or violates any third-party's intellectual property rights, publicity/privacy rights, law or regulation; (b) contains any viruses or programming routines intended to damage, surreptitiously intercept or expropriate any system, data or personal information; or (c) is materially false, misleading or inaccurate. The District further represents and warrants that it will not request data from End Users: (a) the storage of which would violate applicable laws and regulations; or (b) that the District would not ordinarily store unencrypted on its own servers. The Company may take remedial action if District Content violates this Section 14; *provided, however*, that the Company is under no obligation to review District Content or data for accuracy, potential liability, or compliance with this Section. The District will defend, indemnify and hold harmless the Company, its officers, directors, employees, agents, and contractors from and against any and all losses, costs, damages, liabilities or expenses (including without limitation reasonable attorneys' fees) incurred or arising from any claim by a third party arising out of the District Content.
15. **FORCE MAJEURE**: The Company shall not be liable or responsible to the District nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the Company's reasonable control, including, without limitation: (i) acts of God; (ii) flood, fire, earthquake or explosion; (iii) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (iv) changes in applicable law; (v) actions, embargoes or blockades in effect on or after the date of this Agreement; (vi) action by any governmental authority; (vii) national or regional emergency; (viii) strikes, labor stoppages, or slowdowns or other industrial disturbances; (ix) shortage of adequate power or transportation facilities; or (x) pandemics.
16. **COMPLIANCE WITH LAW; INDEMNIFICATION**: Each Party will comply with applicable federal, state and local laws, rules, and regulations ("Laws") in the performance of each Party's respective obligations under this Agreement, including but not limited to laws governing consumer protection. By way of example, but in no way limiting the preceding, some states prohibit surcharges on credit and debit card transactions. To the extent that the District chooses to accept cards and elects to impose a convenience fee, the District assumes all liability for that choice. Absent legal advice provided to the District that such Laws do not apply to the District, the Company's general recommendation is that institutions in these states should not impose a convenience fee or surcharge (*i.e.*, such institutions should choose the discount fee option or not offer cards as a payment type). The District will indemnify and hold the Company harmless from and against any and all claims, liabilities, losses, damages, costs, and expenses, including reasonable attorney's fees, asserted against or incurred by the Company under federal, state or local laws as a result of the Company complying with any instruction or directive by the District.

17. **BRANDING AND INTELLECTUAL PROPERTY:** Each Party will retain its ownership and intellectual property rights with regard to its copyrights, trademarks, service marks, registered marks, patents, pending patents, trade secrets, and any other forms of intellectual property. Neither Party will have any ownership interest in the intellectual property of the other Party. In no way limiting the foregoing, the Company grants the District permission to display its logo during the term of this Agreement provided that the District agrees to use the most current logo supplied by the Company and to display such logo on its website in a position where users will reasonably be able to find it and use it to link to the Company's website.
18. **RELATIONSHIP:** Nothing contained herein is intended to create the relationship of a partnership, joint venture, or employer-employee. In performing this Agreement, the Company, as well as its officers, directors, employees, agents, representatives, and subcontractors, will act as independent contractors and not as employees or representatives of the District. The Company will be solely responsible for and will promptly pay all federal, state, and municipal taxes, chargeable or assessed with respect to its employees and subcontractors, including but not limited to social security, unemployment, federal and state income tax withholding and other taxes, and will hold the District harmless on account thereof.
19. **SEVERABILITY:** If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions will nevertheless remain in full force and effect. The Parties agree to negotiate in good faith a valid and enforceable substitute provision.
20. **SURVIVAL:** The terms of Sections 8, 9, 10, 11, 12, 13, and 14, as well as the Parties' respective representations and warranties, shall survive the termination or expiration of this Agreement for a period of four (4) years.
21. **HEADINGS:** The Section headings of this Agreement are for reference only and are not to be construed as terms.
22. **WAIVER:** Neither Party's failure to exercise its rights hereunder will constitute or be deemed a waiver or forfeiture of such rights.
23. **ENTIRE AGREEMENT:** This Agreement, together with all attachments, including but not limited to Service-specific Terms and Conditions, addenda, District's Standard Addendum and attachments, and Schedule of Services, represents the entire agreement between the Parties as to the matters set forth and supersedes all prior discussions or understandings between them. This Agreement may only be modified or amended in writing signed by authorized representatives of each Party. In the event there is any conflict between the terms of this Agreement and the terms of any Attachment, the order of precedence is as follows: District's Standard Addendum (including Federal Terms and Conditions), Affidavits, PUR 1355, attachments signed by both parties, this Agreement, addenda, and Schedule of Services.
24. **ASSIGNMENT:** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. No Party shall have the right to assign this Agreement or any of its rights or obligations hereunder, in whole or in part, without the prior written consent of the other Party, provided that such consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party may, without the prior consent of the other Party, assign its rights and obligations hereunder (a) to any Affiliate of the assigning Party or (b) in connection with the sale or transfer of all or substantially all of the assigning Party's assets, the acquisition in one or a series of transactions by a person or group of fifty percent (50%) or more of the beneficial ownership of the assigning Party, or a consolidation, business combination, merger, or similar transaction. As it pertains to the Company, "Affiliate" shall mean any entity, individual, firm, or corporation, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with Nelnet, Inc.
25. **NOTICES:** Any notice required to be given under this Agreement shall be in writing and shall be duly served when it has been hand delivered to the addressees set out below, or shall have been deposited, duly registered or certified, return receipt requested, in a United States Post Office addressed, or via overnight delivery, to the Party at the following addresses:

If to Company: Elizabeth Shelton
121 S 13th Street
Lincoln, NE 68508

If to District: Magen Schlechter
919 N. Broad Street
Brooksville, FL 34601

Copies to: Superintendent
919 N. Broad Street
Brooksville, FL 34601

26. **NO THIRD-PARTY BENEFICIARIES:** Nothing in this agreement shall be deemed or construed to create any third-party beneficiaries or otherwise give any third-party any claim or right of action against a Party.
27. **GOVERNING LAW:** This Agreement shall be deemed to have been made in the State of Nebraska and shall be construed, interpreted, and governed by the laws of the State of Nebraska.
28. **AUTHORITY:** Each Party, and each person executing this Agreement on behalf of a Party, represent and warrant that it, he, or she has full legal power to enter into (in the case of a Party) and execute (in the case of a person executing) this Agreement, and to bind and obligate such Party with respect to all provisions hereof.

AUTHORIZED SIGNATURES

Hernando County Public Schools

FACTS Education Solutions, LLC
47-1150867



Print Name _____

Print Name Elizabeth Shelton

Title _____
Signature Date _____

Accounts & Contracts

Title _____
Signature Date 7/2/2025

DISTRICT INFORMATION

Mailing Address
919 N. Broad Street
Brooksville, FL 34601

Corporate Headquarters:

FACTS Education Solutions, LLC
121 South 13th Street
Lincoln, NE 68508
866.315.1263

Approved as to Content & Form
Caroline Mockler, Esq.
Staff Counsel, HCSD
2:48 pm, 07/01/2025

ATTACHMENT A

TERMS AND CONDITIONS

1. **DEFINITIONS:**

- a. **“Agreement”** means the Professional Services Agreement executed between the District and the Company (collectively, **“the Parties”**) which incorporates all applicable attachments, including Schedule of Services and Terms and Conditions.
- b. **“Confidential Information”** has the same meaning as set forth in the Agreement as well as all trade secrets, business and financial information, computer software, machine and operator instructions, business methods, procedures, know-how, and other information that relates to the business or technology of either Party and is marked or identified as confidential, or disclosed in circumstances that would lead a reasonable person to believe such information is confidential. The Company’s hosted system, applications, and all Documentation will be considered the Company’s Confidential Information, notwithstanding any failure to mark or identify it as such.
- c. **“Documentation”** means documentation made available to the District by the Company with respect to the system but excludes any marketing or promotional materials.
- d. **“Intellectual Property Rights”** means any and all existing or future worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights, and other proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing.
- e. **“District Content”** means any data or content that is submitted by the District and collected and stored on the Company’s system including forms, procedure documents, templates and student lists
- f. **“Schedule of Services”** means that list of Services and pricing (each as defined in the applicable Schedule of Services), completed and executed by the Parties, which accompanies these Terms and Conditions and is incorporated into the Agreement between the Parties.
- g. **“Qualifying Students” means students determined by the district to qualify for Title I or Title IVA services**
- h. **“Services”** mean certain educational programming and other professional services provided by the Company and paid for by Title Funds under the ESSA to the District and/or any Participating Entities pursuant to the Agreement, along with any Schedule of Services, these Terms and Conditions, and any additional Attachments. To the extent any capitalized terms in this definition are not defined elsewhere in these Terms and Conditions, they shall have the meaning given to them in the Agreement.
- i. **“Student Records”** shall constitute, if applicable, all Company tests, attendance records, and student diagnostic summaries. Any records that are directly related to a student and are maintained by an educational institution or a party acting on behalf of the institution. Student records can include: grades, transcripts, class lists, course schedules, health records, discipline files, attendance records, awards, and degrees earned.
- j. **Title Student program** means a customized ESSA Title I supplemental instruction program designed specifically for Title I students, in alignment with consultations held with the applicable Local Education Agency (LEA) and officials of the District and/or Participating Entity/ies.
- k. **“Teachers”** means educators employed by the District or Participating School.
- l. **“Title I Teachers”** means educators employed by Company to provide Title I services to students

2. **SCOPE OF SERVICES:**

a. **Title Student program**

Instructional Services

Company offers a customized ESSA Title I supplemental instruction program designed specifically for Title I eligible students, in alignment with consultations held with officials of the District and/or Participating Entity/ies. Our services are coordinated to supplement classroom instruction, with a focus on improving student academic performance in reading, language arts, math, or other subjects approved by the District. ESSA Title IV services are designed to support the three priority content areas: well-rounded educational opportunities, safe and healthy students, and effective use of technology.

i. **Company Responsibilities:**

The company agrees to undertake the following in connection with the Services:

1. Company will provide a menu of programmatic options to determine the best instructional model and effective instructional strategies based upon student needs for improved academic performance.
2. Company will provide supplemental instructional services that best meet the instructional needs of the Title I eligible students which may include summer school.
3. Company will schedule supplemental instructional services outside of core academic instruction time. Supplemental instructional models are inclusive of, yet not restricted to
 - a) One-on-one and/or Small group intervention
 - b) Extended day (before/after school) and/or weekend
 - c) Tutoring
 - d) Virtual instruction
 - e) Blended learning
 - f) Direct instruction
 - g) Summer school
 - h) Enrichment programs
 - i) Combination of models

ii. Company will provide supplemental curricula aligned to state standards and supported by evidence-based studies in accordance with ESSA guidelines and will be secular, neutral, and non-ideological.

iii. District Responsibilities

The District agrees to:

1. Provide the Company with a list of Title I eligible students for participation including complete names and grade levels .
2. Provide the Company with a schedule of required meetings to discuss Services .
3. Pay compensation to the Company using Title Funds for the provision of Services as required herein, as well as required by the Agreement, Schedule of Services(s), and any other Attachments.

iv. Title I Teachers:

1. Company agrees to take full responsibility for the hiring, training, supervising, and providing ongoing professional development, as well as terminating, Title I Teachers providing Services, ensuring the effective implementation of the program.
2. Company will use reasonable efforts to recruit Title I teachers with a minimum of three years teaching experience and/or educational background aligned with the expectation of the District in Title I content areas.
3. The Company will endeavor to collaborate with the principal or a delegate of the applicable Participating Entity in order to generate a list of potential Title I teacher candidates, with final hiring decisions resting with Company .
4. The Company shall ensure that all personnel performing Services under this Agreement have been cleared criminal background checks and child and dependent adult abuse and sexual registry background checks in accordance with the District's procedures prior to performing the Services.
5. Company ensures that Title I teachers receive appropriate training in the utilization of its Title I program services, web-based instructional program, assessments, technology tools, management system, reporting system, and evidence-based instructional strategies and methodologies.
6. Company ensures Title I teachers develop schedules, take attendance, conduct pre and post assessments of each student, develop individualized student learning plans, create and deliver lesson plans, communicate with general education classroom teachers, parents and school administrators.

Professional Development Services

The Company will deliver tailored professional development sessions either onsite or virtually for Teachers administrators, and instructional support staff. The focus is on developing and implementing instructional strategies and systemic improvements aimed at increasing student academic achievement. The professional learning sessions will concentrate on specific topic area(s) in consultation with the District and participating entities. Evaluations from professional development events will be distributed via email upon the completion of each session to assess its effectiveness.

v. **Company Responsibilities:**

7. Company is responsible for providing professional development services focused on developing strong teachers, instructional support staff and leaders, including induction and mentoring, transformative school leadership support, and meaningful evaluation and support for educators to enhance their skills and performance.
8. Professional development opportunities are customized to address the specific needs of school educators, Professional development is grounded in research and led by industry professionals, content specialists and coaches to facilitate continuous growth among educators.
9. Professional development provided by Company are secular, neutral, and non-ideological.
10. Professional development includes an evaluation of the services delivered and summary shared with the District.

vi. **District Responsibilities:**

1. Provide an approval process for professional development services, including a timeline for approval and any applicable forms, to secure funding for the requested event(s).
2. Provide contact information for accounts payable department, including a secondary contact.
3. Pay compensation to the Company using Title Funds for the provision of Services as required herein, as well as required by the Agreement, Schedule of Services(s), and any other Attachments.

b. **Procurement of Goods as a Service:**

In addition to the Services outlined above, the Company may also provide procurement of goods as a service upon request by the District and/or Participating Entity. Such additional services shall be subject to negotiation and agreement between the Company and the District and/or Participating Entity, and any associated costs shall be borne by the District and/or Participating Entity.

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