

Exhibit "C"

School District Standard Terms and Conditions

1. *General Conditions of the Work.*

a. *Standard of Performance.* In carrying out the Work, the Contractor shall exercise the highest degree of competence and diligence exercised by providers in the Contractor's field. The Contractor shall cooperate with the School District and all other Persons contracting with the School District whose work affects the Contractor's Work, or whose work the Contractor's Work affects. The Contractor shall perform all Work under this Contract to the satisfaction of the School District.

b. *Compliance with Applicable Law.* The Contractor shall comply with all Applicable Law in connection with this Contract.

c. *Warranty.* To the extent that the Work includes the sale or the furnishing of Materials, the Contractor warrants that the Materials shall be good, free of defects, merchantable and fit for the particular purposes for which the School District intends to use them.

d. *Contractor Responsibility for Quality of the Work.* Payment by the School District or acceptance of the Work, including any Materials, shall not relieve the Contractor of responsibility for the substance and quality of all Materials and Work. Without any additional compensation, the Contractor shall diligently and expeditiously correct any errors, deficiencies or omissions in the Work, including any Materials, and shall remain liable in accordance with this Contract and Applicable Law for all damages to the School District caused by the Contractor or the Work, including any Materials.

e. *Contractor Staff.* The Contractor shall not assign any Person dismissed from School District employment to perform any Work under this Contract. The Contractor shall within seven (7) days reassign from any Work any employee if the Responsible Official notifies the Contractor that, in the reasonable opinion of the Responsible Official, the employee is incompetent or incapable of carrying out any part of the Work assigned to that Person.

f. *Meetings.* Upon seventy-two (72) hours prior notice from the School District, the Contractor shall attend any meetings requested by the School District, at a location to be determined by the School District.

g. *Site License(s).* To the extent that the Contractor's Statement of Work, Exhibit "A" to this Contract, requires the Contractor to carry out any portion of the Work on premises of the School District, the School District, subject to the terms, covenants and conditions set forth in this Contract, hereby grants the Contractor a limited, revocable license to use such School District premises, and only such School District premises, as are expressly provided or by necessary implication required in order for the Contractor to complete the Work in conformity with the requirements of this Contract. The School District shall have the right at any time and for any reason to terminate the foregoing license. The Contractor covenants and agrees to comply with all rules and regulations concerning the use of School District premises imposed by the School District, including but not limited to rules and regulations set by a principal concerning his or her school. The Contractor shall promptly repair any and all damage to School District premises caused by the Contractor or any of the Contractor's officers, agents, employees or Subcontractors.

h. *Contract Reporting.* The Contractor shall comply promptly with the School District's reporting requirements for contracts, including electronic or other reporting of Contractor and contract data.

2. ***Background Checks.*** In accordance with 24 P.S. § 1-111, as amended, and 23 Pa. C.S.A. §§ 6354-6358, as amended, before starting any Work, the Contractor shall submit to the School District the originals of a current (*i.e.*, processed by the Commonwealth of Pennsylvania within one (1) year prior to the Contractor's starting Work) criminal history record information report and child abuse history official clearance statement for the Contractor, if the Contractor is an individual, and for each of the Contractor's and any of its Subcontractor's employees, officers, agents, servants, volunteers or Subcontractors who will have direct contact with children while performing any of the Work. Before starting any Work, the Contractor shall submit to the School District the original of a current report of the Federal Bureau of Investigation federal criminal history record information for the Contractor, if the Contractor is an individual, and for each of the Contractor's and any of its Subcontractor's employees, officers, agents, servants, volunteers or Subcontractors who will have direct contact with children while performing any of the

Work. Commonwealth Board of Education regulations define “direct contact”; *see* 22 Pa. Code § 8.1.

a. *Arrests; Convictions.* The Contractor shall comply and shall ensure that its officers, employees, agents and Subcontractors comply with the requirements of 24 P.S. § 1-111(j), which mandates, among other things, reporting within seventy-two (72) hours by any officer, employee or agent of the Contractor or of any Subcontractor of an arrest or conviction for an offense listed in 24 P.S. § 1-111(e). The Contractor shall report to the School District, in a prompt and timely manner, all notices and reports required, and all checks conducted, under § 1-111(j).

3. *Compensation; Invoices.*

a. *Invoices Exclusive of Taxes.* Invoices shall be exclusive of state or local sales, use or gross receipts taxes, and federal excise taxes. The School District’s Pennsylvania Sales Tax Blanket Exemption Number is 76-51500-1; its Federal Tax ID Number is 23-6004102; and its Federal Excise Tax Number is 23-63-0021-K.

b. *Support for Invoices.* If the Contractor, after a request by the School District, does not provide evidence satisfactory to the School District to support any item or items set forth on an invoice, the School District shall have no liability to make any payment with respect to that item or items. If the School District has already made payment for that item or items, the School District may by notice to the Contractor require the Contractor to refund to the School District the amount of any such overpayment, or the School District, at its option, may set off such overpayment against any payments accruing thereafter to the Contractor under this Contract or any other contract between the Parties.

4. *The Contractor’s Duties Concerning Taxes and Other Obligations.* The School Reform Commission (the “Commission”) by its Resolution SRC-2, dated February 21, 2013, adopted its Tax Compliance of Vendors Policy (the “Tax Policy”) for School District vendors, including the Contractor. The Tax Policy provides that in general the Commission will not permit the School District to contract with Persons delinquent in payments of any City taxes or other indebtedness, at the execution and delivery of the Contract and at any time during the Term of the Contract.

a. *Contractor’s Covenants.* In compliance with the requirements of the Tax Policy, the Contractor covenants and agrees that throughout the Term of this Contract, for itself and any Person controlling, controlled by or under common control with the Contractor, the Contractor shall comply with the following requirements.

i. At any time during the Term of this Contract upon notice from the School District the Contractor shall deliver to the School District proof of its tax compliance in the form of a “Certificate of Tax Clearance” from the City’s Department of Revenue.

ii. At any time during the Term of this Contract upon notice from the School District the Contractor shall deliver to the School District proof in writing of its execution and delivery of a settlement agreement, payment plan or other necessary and appropriate documentation in satisfaction of any indebtedness to (A) the City for or on account of any City tax, including any tax collected by the City on behalf of the School District, or in satisfaction of any other indebtedness or obligation owed by the Contractor to the City; and (B) the Commonwealth of Pennsylvania for or on account of any Commonwealth tax, or in satisfaction of any other indebtedness or obligation owed by the Contractor to the Commonwealth .

iii. The Contractor shall promptly pay and otherwise promptly and diligently comply with and carry out its duties and obligations under any such settlement agreement, payment plan or other documentation with the City or the Commonwealth of Pennsylvania, until it has discharged its obligation to the City or the Commonwealth of Pennsylvania by satisfying any such tax or other indebtedness or obligation.

iv. The Contractor may in good faith, diligently and expeditiously, pursue any bona fide claim, contest or appeal with the Commonwealth, or the City, as the case may be, of its liability for, or the amount of, any indebtedness or obligation to the Commonwealth of Pennsylvania, or the City for or on account of any tax, including but not limited to any tax collected by the City on behalf of the School District, or other indebtedness or obligation, to the final appeal, adjudication, resolution or compromise thereof with the Commonwealth of Pennsylvania or the City. The Contractor shall promptly pay all uncontested taxes and other indebtedness or obligations to the Commonwealth of Pennsylvania and the City.

b. *The Contractor’s Taxes, etc. – School District Set-Off.* The Contractor agrees that the School District shall have the right to set off against, or to withhold payment of, or both, any and all Compensation accruing and payable to the Contractor under this Contract and any other contract, in order to provide for and assure the payment by or on behalf of the Contractor of any and

all sums of taxes or other indebtedness or obligations then lawfully due and owing by the Contractor or any Person controlling, controlled by or under common control with the Contractor, to either the City or the Commonwealth. Each Party shall have the right to rely on certificates and other official documents provided by either the City or the Commonwealth in proceeding to withhold or set off under this subsection 4.b.

5. **Best Pricing.** The Contractor shall perform the Work at the lowest price the Contractor charges to other school districts or other governmental entities for like work. If the School District pays a price for the Work in excess of the lowest price the Contractor charges or has recently charged to a governmental entity, in addition to all other remedies, the School District shall have a right, as damages, to a refund equal to the difference between the price charged to the School District and the lowest price the Contractor charges or has recently charged to another governmental entity, together with interest at a rate equal to the prime rate of interest as published from time to time by the *Wall Street Journal*, plus five percent (5.0%).

6. **Unavailability of Funds; Crossing Fiscal Years.**

a. **Unavailability of Funds.** In the event the School District, in its sole determination, does not or cannot obtain or continue the funding for this Contract from any source or sources at an aggregate level sufficient to allow for payment for the Work, the School District may exercise one of the following alternatives: (1) terminate this Contract effective upon a date specified in a Termination Notice; or (2) continue this Contract by reducing, through written notice to the Contractor, the amount of this Contract and the scope of the Work, consistent with the nature, amount and circumstances of the loss of funding. Any termination or reduction of this Contract pursuant to this subsection shall not affect any obligations or liabilities of either Party accruing prior to such termination or reduction. The School District shall not face any liability or penalty as a result of such termination or reduction of this Contract.

b. **Crossing Fiscal Years.** If the School District will pay any portion of the Compensation in any School District fiscal year subsequent to the current fiscal year (the School District's fiscal year runs July 1 – June 30), the portion of the Compensation that may accrue hereunder in a subsequent fiscal year remains subject to legally mandated budget authorization by the School Reform Commission, or the Board of Education, as the case may be, of the School District, under Applicable Law. If for any reason funds for that portion of the Compensation that may accrue hereunder in a subsequent fiscal year are not continued in any subsequent School District fiscal year, this Contract and the School District's liability under this Contract shall automatically terminate at the end of the fiscal year for which the School Reform Commission or the Board of Education, as the case may be, authorized funds.

7. **Grant-Funded Contracts; Trust-Funded Contracts.**

a. **Compliance with Grant.** If the School District pays for all or any portion of the Work with funds received by the School District as grants or under other terms and conditions from any source, including the United States of America, the Commonwealth of Pennsylvania, The City of Philadelphia (the "City"), or any department or agency of said governments, or from any public or private charitable trust fund, then the Contractor shall comply with the terms of the applicable grant agreement, contract or trust indenture, as the case may be, in carrying out the Work, and the School District shall comply with the terms of said grant agreement, contract or trust indenture, as the case may be, in making any payment or payments hereunder to the Contractor. The Contractor shall not take any action, or omit to act, if such act or omission would cause a breach or default under any such grant agreement, contract or trust indenture.

b. **Timely Submission of Invoices.** If the School District pays any of the Compensation from federal government or Commonwealth of Pennsylvania grant funds, the Contractor shall bill the School District for any outstanding compensation owed to the Contractor within thirty (30) days after the end of the Term (*see* Section 3 of the Agreement for Services). In the event the Contractor does not bill the School District for the balance of any compensation within said thirty (30) day period, the School District reserves the right to withhold payment of the balance of the Compensation to the Contractor based upon the unavailability of federal government or Commonwealth of Pennsylvania funds, in which event the School District shall have no liability to the Contractor for said balance of the Compensation.

8. **Independent Contractor.** The School District has engaged the Contractor as an independent contractor to carry out the Work, and neither the Contractor nor any of the Contractor's agents, employees or Subcontractors shall in any way or for any purpose whatsoever be deemed an agent or employee of the School District. Neither the Contractor nor any of its agents, employees or Subcontractors constitute employees of the School District, and these Persons shall have no right to receive any School District employee benefits, or any other privileges available to School District employees. Neither the Contractor nor its agents, employees or Subcontractors shall represent themselves in any way as agents or employees of the School District, and none

of the Contractor, its agents, employees or Subcontractors has any power to bind legally the School District to any third party.

9. **Non-Discrimination.** The Contractor, for itself, its officers, agents, employees and Subcontractors, covenants and agrees that it shall not discriminate against or intimidate any employee or other Person on account of age, race, color, sex, sexual orientation, handicap, disability, religious creed, ancestry, national origin or Vietnam-era or any other veteran status. The School District is an equal opportunity employer under Applicable Law, and requires the same of the Contractor. The School District shall not do business with any Person that unlawfully discriminates on the basis of age, race, color, sex, sexual orientation, handicap, disability, religious creed, ancestry, national origin or Vietnam-era or any other veteran status, or any other impermissible ground in hiring, promotion, subcontracting or procurement practices. The Contractor shall include the first three sentences of this Section 9, with appropriate adjustments for the identity of the parties, in any Subcontracts that it executes and delivers. If the School District has selected the Contractor pursuant to a public solicitation or through a request for proposals (“RFP”) or comparable process and the Contractor submitted a plan describing the participation of minority-, women-owned or disadvantaged businesses as part of the solicitation or the RFP, then the Contractor shall comply with its participation plan.

10. **Subcontracts.**

a. **School District Consent Required.** The Contractor shall not delegate or enter into any Subcontract for the performance of any of its obligations under this Contract, including any portion of the Work, in whole or in part, without in each instance first giving notice to and obtaining the written consent of the School District, which consent the School District may grant, withhold, condition or delay in its sole discretion. The School District hereby consents to any Subcontract entered into by the Contractor specifically referenced in Exhibit “A”, the Contractor’s Statement of Work, to this Contract. Any subcontract made in violation of this Section shall be null and void. The School District shall have no obligation to any Subcontractor. Each Subcontract shall contain clauses to the effect that (i) the Subcontractor shall have no recourse to the School District for any payment, or for performance under, such Subcontract; (ii) the Subcontractor consents to any assignment of the Subcontract by the Contractor to the School District, at the School District’s sole option; and (iii) the Contractor shall make payment to any Subcontractor within five (5) business days after receipt of payment from the School District with respect to work properly invoiced by a Subcontractor to the Contractor and reflected in the payment by the School District to the Contractor.

b. **No Change in the Contractor’s Obligations.** The existence of any Subcontract shall not alter or limit the obligations of the Contractor to the School District under this Contract. The Contractor shall at all times remain fully responsible for its Subcontractors, and shall ensure that it legally binds all Subcontractors to the same terms and conditions as the Contractor under this Contract, including without limitation, non-discrimination, warranties, confidentiality, maintenance and preservation of records and audit by government representatives.

11. **Non-Assignment.** The Contractor acknowledges that the Work constitutes personal or professional services, or both, of the Contractor. Except through a Subcontract subject to Section 10 above, the Contractor shall not assign this Contract, or any part of this Contract, nor delegate performance of any part of this Contract, without the prior written consent of the School District, which consent the School District may grant, withhold, condition or delay in its sole discretion. This Contract legally binds the Parties and their respective successors and assigns. Any purported assignment in violation of this provision shall be void and of no effect. The School District’s consent to an assignment shall not release the assignor from any liability accrued or thereafter accruing under this Contract. Any assignment shall be in writing and shall contain an express assumption by the assignee of all liability accrued or thereafter accruing under this Contract. Consent by the School District to any assignment shall not constitute a course of conduct, dealing or performance with respect to any other assignment or proposed assignment. For purposes of this Section 11, an assignment includes the acquisition of the Contractor, or a controlling interest therein, through an asset sale or a corporate or other merger, the appointment of a receiver or bankruptcy trustee for the Contractor, and the transfer of this Contract or the Contractor in any bankruptcy or other insolvency-related proceeding. A receiver or trustee of or for the Contractor in any federal or state bankruptcy, insolvency or other proceeding concerning the Contractor shall comply with the requirements set forth in this Contract, including but not limited to this Section.

12. **Audits; Records and Payments.**

a. **Audits.** From time to time during the Term of this Contract, and for a period of six (6) years after the expiration or termination of this Contract (*see* 24 P.S. § 5-518), the School District, the Controller of the City, the Commonwealth of Pennsylvania, including without limitation its Auditor General and the Pennsylvania Department of Education, or a department, agency or instrumentality of the United States of America, if the School District funds this Contract with federal funds, or any of their authorized representatives (each, for the purposes of this Section, an “Auditor”) may audit any and all aspects of the Contractor's performance under this Contract, including but not limited to its billings and invoices and payments received. If

requested by an Auditor or the School District, the Contractor shall submit to the Auditor and the School District for review or inspection, all invoices presented for payment pursuant to this Contract, all cancelled checks, Materials, invoices, vouchers, reports, work product, work papers, books, records and accounts upon which the invoices are based, and any and all documentation and justification in support of expenditures or fees incurred pursuant to this Contract.

b. *Inspection.* The Contractor acknowledges and agrees that any Auditor may inspect or review all of its Work and Materials, and all of its sites, locations and facilities related to its performance under this Contract. Inspection and review of Work and Materials shall take place at the offices of the Contractor in the City, or in another location with the Auditor's consent. The Contractor shall cooperate with all School District, City, Commonwealth of Pennsylvania and federal inspections and reviews conducted in accordance with the provisions of this Contract. The scope of such inspection and review of the Work and Materials, and sites, locations and facilities, including, without limitation, programs, lies in the sole discretion of the Auditor. Such inspection or review may include, without limitation, meetings with persons receiving services under this Contract, review of staffing ratios and job descriptions, and meetings with any of the Contractor's staff members who either directly or indirectly participate or participated in carrying out any of the Work, including preparing, delivering or installing any Materials.

c. *Availability of Records.* The Contractor shall make available, in the City at reasonable times during the Term of this Contract and for the period set forth in subsection 12.d. below, all records pertaining to this Contract for the purpose of inspection, audit or reproduction by any Auditor. The Contractor shall provide such records without unreasonable delay when requested by an Auditor.

d. *Retention of Records.* The Contractor shall retain all records, books of account and documentation pertaining to this Contract for the greater of the period required by Applicable Law or six (6) years following expiration or termination of this Contract; if, however, any litigation, claim or audit commences prior to expiration of said six (6) year period, then the Contractor shall retain the records until all litigation, claims or audit findings have been completely terminated or resolved without right of further appeal.

13. *Indemnification; Litigation Cooperation; Notice of Claims.*

a. *Indemnification.* The Contractor shall indemnify, defend and hold harmless the School District, its officers, employees, agents and the members of the School Reform Commission and the Board of Education, from and against any and all losses, expenses, including, but not limited to, litigation and settlement costs and attorneys' fees and costs, claims, suits, actions, damages, and liability for or on account of actual or alleged loss of life, bodily injury, personal injury, damage to property, or the use of facilities or equipment furnished to the Contractor, that arise out of or are related to the performance or non-performance of the Work by the Contractor or the Contractor's agents, Subcontractors, assignees, independent contractors, employees or servants. The Contractor shall indemnify, defend and hold harmless the School District, its officers, employees, agents and the members of the School Reform Commission and the Board of Education, from and against any and all losses, expenses, including, but not limited to, litigation and settlement costs and attorneys' fees and costs, claims, suits, actions, damages and liability for or on account of actual or alleged violation of any third party's copyright, trademark, patent, trade secret or other valid proprietary right, employment discrimination, contamination of or adverse effects on the environment, intentional acts or omissions, failure to pay any Subcontractors or suppliers, any Event of Default under this Contract, and breach, if any, of any Subcontract, that arise out of or are related to the performance or non-performance of the Work by the Contractor or the Contractor's agents, Subcontractors, assignees, independent contractors, employees or servants.

b. *Indemnification; Contractor's Employees.* This Section 13 protects the School District, its officers, employees, agents and the members of the School Reform Commission and the Board of Education from all claims arising during the Term of this Contract asserted by employees, agents or workers of the Contractor or any Subcontractor who are injured on or by School District real personal property, or who assert an employment claim of any kind, including but not limited to any claim or claims relating to the termination of employment, regardless of when the claimant makes the claim. Except as expressly set forth below in this subsection 13.b., the Parties shall not construe this Section 13 to alter, limit, negate, abridge or otherwise reduce any other right or obligation that would otherwise exist as to any Party or Person described in this Contract. This Section 13 functions independently of the Contractor's or its Subcontractors insurance or lack thereof, and the Parties do not intend that rights set forth in this Section 13 be deemed limited by the Pennsylvania's Worker's Compensation Act. This Section 13 shall apply, particularly, but not exclusively, to the claims of the Contractor and all of its Subcontractors, and all of their respective officers, agents, representatives and employees, against the School District, its officers, employees and agents, and the members of the School Reform Commission and the Board of Education. The Contractor and all of its Subcontractors, and all of their respective officers, agents, representatives and employees, shall have no claim against the School District, its officers, employees and agents and the members of the School Reform Commission and the Board of Education for the acts, failures to act or negligence of the School

District, or its officers, employees and members of the School Reform Commission or Board of Education.

c. *Litigation Cooperation.* If at any time, including after the expiration or earlier termination of the Term of this Contract, the School District becomes involved in a dispute or receives notice of a claim, or is involved in litigation concerning the Work and Materials provided under this Contract, the resolution of which requires the services or cooperation of the Contractor, and the Contractor does not otherwise have a duty to indemnify and defend the School District pursuant to the provisions of subsection 13.a. above, the Contractor shall provide such services and shall cooperate with the School District in resolving such claim or litigation as part of the Work and Materials under this Contract.

d. *Notice of Claims.* If the Contractor receives notice of a legal claim against it in connection with or in any way related to this Contract, the Contractor shall (1) submit appropriate written notice of such claim to its insurance carrier within the time frame required for submission of claims by the applicable insurance policy and, (2) within five (5) business days of receipt of notice of the claim, give notice of such claim to the School District.

14. ***School District Statutory Immunity.*** Any other term, covenant or condition of this Contract to the contrary notwithstanding, the School District, its officers, employees and agents and the members of the School Reform Commission and the Board of Education, retain their statutory governmental, official and any other immunity provided pursuant to the Applicable Law, including 42 Pa. C.S.A. §§ 8501 and 8541 *et seq.*, and do not waive the defenses of governmental and official immunity derived from such laws. The School District does not waive for itself or for its officers, employees, or agents, or for the members of the School Reform Commission and Board of Education, any other defenses or immunities available to it or any of them.

15. ***Insurance.*** The Contractor shall, at its own expense, procure and maintain the types and minimum limits of insurance specified below covering the Contractor and the performance of the Work. The Contractor shall procure all insurance solely from insurers authorized to do business on an admitted basis in the Commonwealth of Pennsylvania, or otherwise acceptable to the School District's Office of Risk Management. The Contractor shall procure all insurance through an insurance carrier or carriers, each of which shall have at least an A- (Excellent)/**FSC-XI** rating from A.M. Best. All insurance herein, except the professional liability insurance, shall be written on an "occurrence" basis and not a "claims-made" basis. In no event shall the Contractor commence performing any part of the Work until the Contractor has delivered to the School District the required proof of insurance. The insurer shall provide for at least thirty (30) days prior written notice to the School District in the event the Contractor and its insurer or insurers materially change, cancel or non-renews any insurance policy. The Contractor shall name The School District of Philadelphia and its officers, employees and agents as additional insureds on the general liability insurance policy, and the Contractor shall ensure that its insurer so endorses this policy. The Contractor shall procure and maintain an endorsement or endorsements stating that (i) the coverage afforded the School District and its officers, employees and agents as additional insureds shall be primary to any other coverage available to them, and (ii) no act or omission of the School District or its officers, employees and agents shall invalidate the coverage, other than an act or omission that constitutes willful misconduct or gross negligence.

a. *Workers' Compensation and Employer's Liability.* Workers' Compensation limits shall be the statutory limits, and employers' liability insurance, with limits of (1) \$100,000 Each Accident-Bodily Injury by Accident; (2) \$100,000 Each Employee-Bodily Injury by Disease; and (3) \$500,000 Policy Limit-Bodily Injury by Disease. Any other states' insurance under this subsection shall include Pennsylvania.

b. *General Liability Insurance.* Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury, including death, and property damage liability; \$1,000,000 advertising injury; \$2,000,000 general aggregate, and \$2,000,000 aggregate for products and completed operations. The general liability insurance shall cover: premises operations; blanket contractual liability, personal injury liability; products and completed operations; independent contractors, employees and volunteers as additional insureds; cross-liability; and broad form property damage including completed operations. The School District may require higher liability limits or aggregate coverages at any time during the Term if in the School District's sole discretion, the risk warrants.

c. *Automobile Liability Insurance.* Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury, including death, and property damage liability, arising from owned, non-owned, and hired vehicles when any motor vehicle is used in connection with the Work.

d. *Professional Liability Insurance.* Limit of Liability: \$1,000,000 with a deductible not to exceed \$100,000. The professional liability insurance shall cover errors and omissions, including liability assumed under this Contract. The Contractor may permit its insurer to write this coverage on a claims-made basis, provided that the Contractor shall maintain coverage for

occurrences arising out of the performance of the Work required under the Contract in full force and effect under the policy or “tail” coverage for a period of at least three (3) years after completion of the Work, or shall provide for an extended reporting period of at least three (3) years after cancellation of the policy.

i. *Educator’s Legal Liability Insurance.* If the Contractor, including its officers, employees or agents, will or may have direct contact with children, the Contractor shall procure and maintain educator’s legal liability coverage of \$1,000,000 per occurrence combined single limit / \$2,000,000 general aggregate coverage. Educator’s Legal Liability Insurance coverage must include coverage for wrongful physical or sexual contact. If the Contractor provides educational services, the Educator’s Legal Liability coverage shall also include educational wrongful acts, employment practices wrongful acts and directors and executive officers wrongful acts.

Certificates of Insurance evidencing the required coverages and endorsements providing proof of insurance must specifically reference the School District contract number set forth on the first page of the Agreement for Services (please type this contract number in the ‘Description’ section of the certificate). The Contractor shall deliver the original certificate and endorsements providing proof of insurance to:

The School District of Philadelphia
Office of Risk Management
440 North Broad Street, Third Floor
Philadelphia, PA 19130-4015
(215) 400-4590

The Contractor shall deliver the certificate of insurance and endorsements providing proof of insurance to the School District at least ten (10) days before any Work or any extension of the Term begins. Under no circumstances shall the Contractor actually begin Work, or continue Work, in the case of an extension of the Term, without providing the evidence of insurance. The Contractor shall not self-insure any of the coverages required under this Contract without the prior written consent of the School District’s Office of Risk Management. The School District reserves the right to require the Contractor to provide certified copies of the original policies of all insurance required under this Contract at any time upon ten (10) days written notice to the Contractor.

16. Confidentiality; Student Records; Data Ownership.

a. *Confidential Information.* The Contractor shall keep in strict confidence all information acquired in connection with or as a result of this Contract that is not generally known to others (“Confidential Information”). During the Term of this Contract and at any time thereafter, without the prior written consent of the School District, the Contractor shall not disclose or use to its advantage, profit or gain any Confidential Information or any other information subject to a third party’s proprietary right, such as a copyrighted or trademarked work.

b. *Student Records.* The Contractor shall keep in strict confidence as required and to the fullest extent required by any Applicable Law, including but not limited to the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (“FERPA”), any and all records and information, in whatever form or format received, pertaining to the School District’s individual students and children, including but not limited to any academic or grade information, attendance, truancy, discipline, receipt of special education services or supplementary educational services, social security or public benefits, or information as to race, ethnicity or disability. The Contractor acknowledges and agrees that FERPA limits the transfer and re-transfer of education records and personally identifiable information in education records. The School District shall transmit information or records, or both, protected by FERPA solely to the individual named in Section 7 of the Agreement for Services, and such other duly authorized individuals as the Contractor may specify by notice to the School District (*see* Section 7 of the Agreement for Services and Section 21 of these Standard Terms and Conditions).

c. *Publication Rights.* With regard to any reports, studies or other works developed in the course of this Contract, or as a result thereof, the Contractor shall not publish Confidential Information or any other information which identifies students, employees or officers of the School District by name without first obtaining written consent from such individuals, or in the case of a student, his or her parent or legal guardian. The Contractor shall provide to the School District for its review any proposed publication, brochure or advertisement that names the School District not less than thirty (30) calendar days prior to submission for publication, and the Contractor shall remove the School District’s name and any information identifying the School District from the publication if the School District requests removal. The Contractor shall not issue, publish or divulge any Materials developed or used in the performance of this Contract or make any statement to the media relating to the Contract without the prior consent of the School District.

d. *Data Ownership.* The School District retains and reserves its ownership of, and all right, title and interest in, any and all data provided by the School District to the Contractor under or in connection with this Contract. The Contractor acknowledges and agrees that the School District grants to the Contractor a limited, revocable, nonexclusive right and license to use any such School District data, which may include personally identifiable information subject to FERPA, solely for the Contractor's use in carrying out the Work set forth in this Contract and solely in conformity with FERPA and other Applicable Law. At any time during and after the expiration or earlier termination of the Term of this Contract, the School District may request that the Contractor deliver to the School District all or any portion of any data provided by the School District; promptly upon receipt of any such request the Contractor shall, without any charge to the School District, deliver to the School District the requested data in a usable format reasonably specified by the School District. School District data includes any information and data developed by the Contractor, e.g., by populating a database, as part of or associated with the Work set forth in this Contract. The Contractor shall not destroy nor permit the destruction of any School District data, except upon the prior express written consent of the School District. Upon the expiration or earlier termination of the Term of this Contract, the Contractor shall promptly and in any event not later than ten (10) business days after request by the School District, return to the School District all School District data then in the possession or control of the Contractor. Once the Contractor has returned all School District data, it shall promptly destroy and dispose of any remaining copies of the data in its possession or in the possession of any Subcontractor.

17. *Materials; Intellectual Property.*

a. *Computer Programs.* The Contractor shall ensure that all of its computer programs, tapes and software developed under this Contract comply with any pertinent specifications or requirements set by the School District.

b. *License.* For the duration of the Term, as the Parties may agree to extend it, the Contractor hereby grants, and shall require its Subcontractors, if any, to grant, to the School District the irrevocable, royalty-free right to reproduce, distribute copies of, adapt, display, perform, translate, and publish, throughout the universe, in any medium now known or hereafter invented, all Materials and works of authorship, including without limitation studies, media, curricula, and other things of any nature, developed pursuant to this Contract.

18. *Conflict of Interest.*

a. *Disclosure of Conflict of Interest.* The Contractor represents, warrants and covenants that it has no public or private interest which does or may conflict in any manner with the performance of the Work and that neither it, nor any of its directors, officers, members, partners, employees or Subcontractors, has or shall during the Term acquire, directly or indirectly, any such interest. The Contractor shall promptly and fully disclose to the School District's Responsible Official all interests which constitute or may constitute such a conflict.

b. *Improper Gift; Improper Relationship.* The Contractor represents, warrants and covenants that it has not directly or indirectly offered or given and shall not directly or indirectly offer or give any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value to any School District employee who participated in the decision to authorize or enter into this Contract. The Contractor warrants that, to its knowledge, neither a School District employee or officer who participated in the decision to enter into this Contract, nor any member of the employee's immediate family, receives more than \$1,000 per year from the Contractor, has a direct or indirect investment worth \$1,000 or more in the Contractor or is a director, officer, partner, trustee or employee of the Contractor.

c. *School District Employees Not to Benefit.* The Contractor shall not make any payment or give anything of more than nominal value to any School District official or employee except in accordance with Applicable Law and School District policy. The Contractor shall comply with the School District's vendor Code of Ethics, and also, to the extent applicable, with the School District's Code of Ethics for School District officers and employees. The Contractor shall disclose to the School District the name of each School District official or employee who receives payment from the Contractor, the amount such official or employee receives and the services rendered by the official or employee in consideration of the payment.

19. *Default; Notice and Cure; Remedies.*

a. *Event of Default.* Each of the following constitutes an Event of Default by the Contractor under this Contract:

i. Failure by the Contractor or any Subcontractor to comply with any term, covenant or condition set forth in this Contract.

ii. The Contractor's (a) filing for bankruptcy, (b) making any assignment for the benefit of creditors, (c) consent to the appointment of a trustee or receiver (d) insolvency, as defined by Applicable Law, or (e) the filing of an involuntary petition against the Contractor under the Federal Bankruptcy Code or any similar state or federal law which remains undismissed for a period of forty-five (45) days.

iii. Default by the Contractor under any other agreement the Contractor may have with the School District.

iv. Any material misrepresentation by the Contractor in (A) this Contract, (B) any other document submitted to the School District by the Contractor, or (C) otherwise by the Contractor directly or indirectly to the School District in connection with the School District's decision to execute, deliver and perform this Contract.

v. Failure of the Contractor to provide, within five (5) business days, assurance reasonably acceptable to the School District that it can perform the Work in conformity with the terms of the Contract if (1) the School District has a reasonable basis to believe at any time during the Term of the Contract that Contractor will not be able to perform the Work; and (2) the School District demands in writing assurance of the Contractor's performance.

vi. Misappropriation by the Contractor of any funds provided under this Contract or failure by the Contractor to notify the School District upon discovery of any misappropriation.

vii. Indictment of or other issuance of formal criminal charges against the Contractor, or any of its directors, employees, agents or Subcontractors or any of the directors, employees or agents of a Subcontractor or any criminal offense or any other violation of Applicable Law directly relating to this Contract, the Work or the Materials, or which adversely affects the Contractor's performance of this Contract in accordance with its terms, whether or not a court of law or other tribunal ultimately accepts a verdict or plea of guilty or no contest regarding the charged offense.

viii. Debarment or suspension of the Contractor or any director, agent, employee or Subcontractor of the Contractor, or any Person controlling, under common control with, or controlled by, the Contractor under a federal, state or local law, rule or regulation.

ix. Failure by the Contractor to comply with any term, covenant or condition set forth in Section 4, **Contractor's Duties Concerning Taxes, etc.**, above in these Standard Terms and Conditions, or the breach of any of the Contractor's representations and warranties set forth in subsection 22.f., below.

b. *Notice and Cure.* If the Contractor commits or permits an Event of Default, the School District shall notify the Contractor in writing of its determination that an Event of Default has occurred. The Contractor shall have ten (10) business days from receipt of that notice, or such additional cure period as the School District may authorize in its sole discretion, to correct the Event of Default; provided, however, that no such notice from the School District or period of cure shall be required before invoking the remedies described in subsection 19.c. if: (1) the Contractor has temporarily or permanently ceased performing the Work; (2) an emergency has occurred relating to the Work, and that emergency requires immediate exercise of the School District's rights or remedies, as determined by the School District in its sole discretion; (3) the School District has previously notified the Contractor more than once in the preceding twelve (12) month period of any Event of Default under this Contract; (4) an Event of Default occurs as described in subsection 19.a. vi., vii., or viii. above; or (5) the Contractor breaches any of its obligations under Sections 2 or 9 of these Standard Terms and Conditions. Nothing set forth in this subsection 19.b. shall limit the School District's rights under subsection 19.c.

c. *Remedies.* If the Contractor does not cure the Event of Default within the period allowed by the School District, or if the Contractor commits or permits an Event of Default for which subsection 19.b. above provides no notice or period of cure, then the School District may, without further notice or demand to the Contractor, and without waiving or releasing the Contractor from any of its obligations under this Contract, invoke and pursue any or all of the following remedies:

i. terminate this Contract by giving the Contractor a Termination Notice.

ii. perform, or cause a third party to perform, this Contract, in whole or in part. The Contractor shall be liable to the School District, as damages, for all expenses incurred by the School District or a third party pursuant to this subsection 19.c.ii., together with interest at the prime rate of interest as published from time to time by the *Wall Street Journal*, plus five percentage points (5.0%). The School District shall not in any event be liable for inconvenience, expense, loss of profits or other

damage incurred by the Contractor by reason of the School District's performance or paying such costs or expenses.

- iii. withhold payment of, or offset against, any funds payable to or for the benefit of the Contractor.
- iv. collect, foreclose or realize upon any bond, collateral, security or insurance provided by or on behalf of the Contractor.
- v. any other legal or equitable remedy available to the School District, including but not limited to a legal action for breach and damages against the Contractor.

d. *Specific Performance.* The Contractor's Work and Materials represent unique services and things, not otherwise readily available to the School District. Accordingly, the Contractor acknowledges that, in addition to all other remedies, the School District shall have the right to enforce the terms of this Contract by a decree of specific performance or an injunction, or both, restraining a violation, or attempted or threatened violation, of any term, covenant or condition set forth in of this Contract.

e. *Concurrent Pursuit of Remedies.* The School District may exercise any or all of the remedies set forth in this Section 19, each of which the School District may pursue separately or in conjunction with any other remedy or remedies, as the School District shall determine. The School District may in its sole discretion elect not to exercise any of the above remedies and may permit the Contractor to continue to perform the Work. No extension or indulgence granted by the School District to the Contractor shall operate as a waiver of any of the School District's rights in connection with this Contract.

20. *Termination for Convenience.* The School District may terminate this Contract for its convenience, that is, for any reason or for no reason at all, at any time, in its sole discretion, upon fourteen (14) days prior written notice to the Contractor of the School District's termination of this Contract (a "Termination Notice"), without penalty, cost or liability to the School District. If the School District terminates this Contract, the School District shall pay the Contractor for any Work satisfactorily completed before the effective date of termination, but in no event shall the Contractor have any right to receive costs caused by or related to loss of profits for Work that the Contractor did not perform because of the early termination, or for loss of profits for services the Contractor could have performed for other Persons absent its engagement under this Contract.

a. *Contractor Actions upon Termination.* Upon receipt of a Termination Notice from the School District under Sections 6., 19., or 20 above, the Contractor shall take immediate action to effect the orderly discontinuance of the Work. The Contractor shall collect, assemble and transmit to the School District, at the Contractor's sole expense, all Materials developed under this Contract. The Contractor shall clearly label and index to the satisfaction of the School District all such Materials, and shall deliver all such Materials to the School District within thirty calendar (30) days after receipt of a Termination Notice, or in such shorter period as the School District may specify in its Termination Notice.

21. *Notices.* Except as expressly provided to the contrary in any other Section of this Contract, the Parties shall give all notices, waivers, consents and approvals required under this Contract in writing. The Parties shall deem any notices, waivers, consents and approvals duly given (a) when received or refused if delivered by hand with receipt given or refused; (b) on the next business day if delivered by a nationally recognized overnight courier service (*e.g.*, Federal Express, United Parcel Service); (c) on the date confirmed for receipt by facsimile if delivered by facsimile, provided that any notice by facsimile shall be promptly confirmed by one of the other methods set forth in this section; and (d) upon receipt or refusal of delivery if sent by certified or registered United States mail, return receipt requested. In each case the Parties shall send notices to the other Party's representative as set forth in and at the addresses set forth in Section 7 of the Agreement for Services. The Parties shall not transmit notices required under or in connection with this Contract by electronic mail.

22. *Representations and Warranties.* Effective as of the execution and delivery of this Contract and throughout the Term of this Contract, the Contractor makes the following representations, warranties and covenants to the School District.

a. It has all necessary power and authority to execute, deliver and perform this Contract and has completed all actions necessary in order to duly authorize the execution, delivery and performance of this Contract, including duly authorizing the Person who signs this Contract to do so on its behalf.

b. This Contract, when executed and delivered, shall constitute a legal, valid and binding obligation of the Contractor, enforceable against the Contractor in accordance with its terms.

c. The Contractor is financially solvent, can and shall pay all its debts as they mature, and possesses working

capital sufficient to carry out the Work.

d. The Contractor owns or has duly and validly licensed from a third party the Materials and any other materials used by the Contractor in carrying out the Work; the Contractor's use or delivery thereof to the School District in connection with this Contract, and any use thereof by the School District as contemplated by this Contract, does not and shall not violate any third party's copyright, patent, trade secret or other proprietary right.

e. The Contractor is and shall be, at all times during the Term of this Contract, duly qualified to transact business in the Commonwealth of Pennsylvania, professionally competent and duly licensed to carry out the Work, if the performance of the Work requires any license or licenses.

f. The Contractor and any other Person controlling, controlled by, or under common control with the Contractor are not currently indebted to the City or the Commonwealth of Pennsylvania for or on account of any delinquent taxes, including but not limited to any taxes imposed, levied, authorized or assessed by the Commonwealth or the City, including any tax imposed, levied, authorized or assessed for or on behalf of the School District, for which no written settlement agreement or payment plan with the City, or the Commonwealth of Pennsylvania, as the case may be, has been executed and delivered.

g. Neither the Contractor nor any of its principals or Subcontractors, nor any other Person controlling, controlled by, or under common control with, the Contractor, are under suspension or debarment, have received official notice of commencement of proceedings for debarment or have been declared ineligible for contracts, bids, RFPs or contract awards by the Commonwealth of Pennsylvania, the City, any Federal agency or any school district.

The Contractor shall provide immediate written notice to the Responsible Official if at any time during the Term of this Contract the Contractor learns that any of these representations, warranties or covenants was or has become erroneous.

23. **Definitions.** Except as expressly provided to the contrary elsewhere in these Standard Terms or Conditions or in the Agreement for Services, capitalized terms shall have the meanings specified in this Section. In the event of a conflict between a definition in these Standard Terms and Conditions and the Agreement for Services, the definition in the Agreement for Services shall apply. In the event of a conflict between a definition in any exhibit, addendum or attachment to the Agreement for Services and a definition in these Standard Terms and Conditions, the definition in these Standard Terms and Conditions shall apply.

a. *Agreement for Services.* "Agreement for Services" means the instrument headed "Agreement for Services", which forms a part of this Contract and which contains the signatures of the School District and the Contractor, and sets forth certain of the terms, covenants and conditions specific to the Contractor's engagement.

b. *Applicable Law.* "Applicable Law" means and includes all federal, state, and local statutes, ordinances, resolutions and regulations, including the rules and regulations of any government authority, School District rules, regulations and policies applicable to the School District, the Contractor and the Work, and includes all applicable case law, court orders, injunctions and consent decrees.

c. *City.* "City" has the definition set forth above in subsection 7.a.

d. *Contract.* "Contract" means the agreement of the Parties evidenced by the instruments integrated into and forming a part of this Contract, *i.e.*, the Agreement for Services, Exhibit "A", Exhibit "B", if any, these Standard Terms and Conditions and any other Exhibit incorporated into this Contract as set forth in the Agreement for Services.

e. *Event of Default.* "Event of Default" means those events defined and identified in subsection 19.a. of these Standard Terms and Conditions.

f. *FERPA.* "FERPA" has the definition set forth above in subsection 16.b.

g. *Materials.* "Materials" means any and all reports, records, documents, documentation, information, supplies, plans, original drawings, specifications, computations, sketches, renderings, arrangements, videos, pamphlets, advertisements, statistics and other data, computer tapes, computer software, and other tangible work product, materials or goods prepared, supplied or developed by the Contractor as part of or in connection with the Work, or for the Contractor by a Subcontractor in connection with the Work, and deliverable or delivered to the School District by the Contractor or its Subcontractor pursuant to this Contract.

h. *Party; Parties.* A “Party” means either the School District or the Contractor; the "Parties" means the School District and the Contractor.

i. *Person.* “Person” means any individual, association, partnership, limited partnership, joint venture, corporation, limited liability company or other form of entity or association recognized at law.

j. *Responsible Official.* “Responsible Official” means the School District official named in Section 7 of the Agreement for Services.

k. *Subcontract; Subcontractor.* “Subcontract” means a contract made between the Contractor and a Subcontractor providing for the completion of some part or parts of the Work or Materials by a Subcontractor. “Subcontractor” means a Person performing under a contract with the Contractor a part of the Work or Materials that the Contractor has agreed to carry out pursuant to this Contract.

l. *Termination Notice.* “Termination Notice” means a notice given by the School District of its intent to terminate the Contract and its termination of the Contract as referenced in Sections 6, 19 and 20. Such notice shall specify an effective date.

m. *Work.* “Work” means the work, including any Materials, that the Contractor has agreed to complete under this Contract, as described in Section 1 of the Agreement for Services, Exhibit “A” to this Contract, and any relevant exhibits or addenda forming part of this Contract.

Unless otherwise expressly defined in this Contract, words that have well-established technical meanings or definitions in the field of public primary and secondary education have the same well-established meanings or definitions when used in this Contract.

24. *Miscellaneous.*

a. *Applicable Law; Venue.* The Parties, and any court or other tribunal, shall construe and enforce this Contract under the laws of the Commonwealth of Pennsylvania, regardless of its conflict of laws provisions, and without the aid of any canon, custom or rule of law requiring construction against the draftsman. In the event that the Parties cannot amicably resolve any dispute and a Party resorts to legal action, that Party shall file suit only in the state or federal courts sitting in Philadelphia, Pennsylvania.

b. *Headings.* Section headings in this Contract serve for reference only and shall not in any way affect the meaning or interpretation of this Contract.

c. *Order of Precedence.* In the event of conflict or variation between the Standard Terms and Conditions or the Agreement for Services and any other exhibit, addendum or attachment, the Standard Terms and Conditions or the Agreement for Services, as the case may be, shall govern. In the case of conflict or variation between the Standard Terms and Conditions and the Agreement for Services, the Agreement for Services shall govern.

d. *Severability.* If a court holds any term, covenant or condition of this Contract invalid, such holding shall not affect or impair the validity of any other terms, covenants or conditions of this Contract, which the Parties hereby deem severable and which shall remain in full force and effect.

e. *Survival.* Any and all provisions of this Contract which contemplate performance by a Party after the expiration or earlier termination of this Contract shall survive and be enforceable after such expiration or termination, including without limitation provisions relating to ownership of Materials and indemnification.

f. *Waiver.* No one shall or may find, hold or determine that a Party has waived any term, covenant or condition set forth in this Contract, any Event of Default, or any remedy set forth in this Contract, unless that Party has set forth its waiver in a writing signed by that Party.

g. *No Partnership or Agency.* Anything in this Contract to the contrary notwithstanding, including but not limited to any references in Exhibits “A”, “B” or “D” to a “partnership” or “partner” relationship, the Parties have not created, do not intend to create, and no Party, nor any other Person, including any court or other tribunal, shall construe anything set forth in this Contract as creating, a joint venture or partnership between the School District and the Contractor with respect to the Work. Neither the

Contractor nor the School District shall have any power to bind the other Party in any manner whatsoever to any third party. The Contractor does not function as an agent of the School District in any dealings with any third party.

h. *No Third Party Beneficiaries.* The Parties do not intend to create, and no Party, court, tribunal or Person shall construe anything set forth in this Contract to create, any contractual relationship with, or to give a claim, right, cause of action or remedy in favor of, any third party against either the School District or the Contractor. The Parties do not intend that anything in this Contract benefit any third party.

i. *Entire Agreement; Amendment.* This Contract includes all exhibits and addenda, if any, referred to herein, all of which the Parties hereby incorporate by reference. This Contract constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous oral and written agreements and statements, all of which the Parties have fully integrated herein. This Contract supersedes any prior or contemporaneous course of conduct, performance or dealing between the Parties. No amendment or modification changing this Contract's scope or terms shall have any force or effect unless executed and delivered in writing and signed by both Parties.

j. *Counterparts.* The Parties may execute and deliver this Contract in any number of counterparts, each of which the Parties shall deem an original, and all of which shall constitute, together, one and the same agreement.

k. *Interpretation; Number, Gender.* The words "herein" "hereof" and "hereunder" and other words of similar import refer to this Contract as a whole, and not to any particular Section, subsection or clause in this Contract. Whenever the context requires, the Parties shall construe words used in the singular to include the plural and vice versa, and pronouns of any gender to include the masculine, feminine and neuter genders.

l. *Time.* Time is of the essence of the Contractor's performance of the Work, including the delivery of any Materials to the School District, under this Contract.