

ADDENDUM – STANDARD TERMS AND CONDITIONS

1. **The School.** The “School” means _____, located at _____, Philadelphia, Pennsylvania _____. The School is a part of The School District of Philadelphia (the “School District”) (see *Recourse Limited*, Section 12, below).

2. **Discrimination.** The Contractor shall not discriminate against any employee or any other individual on the basis of age, color, race, sex, religion, creed, handicap or disability, ancestry or national origin, gender identity, marital status, genetic information, sexual orientation, disabled or Vietnam-era or any other veteran status. The School District shall have the right to terminate this contract for breach of this section 2.

3. **Insurance.** Before the Contractor performs any work under this contract, the Contractor must submit to the School and the School District’s Risk Manager certificates of insurance evidencing:

- General Liability Insurance coverage in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate.
- Automobile liability insurance coverage in the amount of \$1,000,000 per occurrence (if the use of an automobile is necessary to comply with this contract)
- If the Contractor has employees, Workers’ Compensation (statutory limits) and Employer’s Liability (policy limits of \$100,000 bodily injury by accident; \$100,000 bodily injury by disease per employee; \$500,000 bodily injury by disease).

The certificate of insurance must include the School District, and its commission members, board members, officers, employees and agents as additional insureds with respect to the Commercial General Liability Insurance, and the Contractor’s insurance policy must be so endorsed.

4. **Background Checks.** In order to comply with 24 Pa. Stat. § 1-111, as amended, and 23 Pa. Const. Stat. Ann. § 6344, 6344.2 as amended, the Contractor has submitted within the past one (1) year for paid individuals and within the past five (5) years for unpaid volunteers or has attached to this contract (a) a Pennsylvania State Police criminal history record information report, (b) a Federal Bureau of Investigation federal criminal history record information, (c) child abuse history clearance (including FBI checks if required), and (d) a sexual misconduct/abuse disclosure release required by Act 168 of 2014 (24 Pa. Stat. § 1-111.1) for all of its agents (including employees and subcontractors and their employees) who will have Direct Contact or Direct Volunteer Contact, as defined by 23 Pa. Const. Stat. Ann § 6303(a), as amended, with School District minor children or students while performing any of the work under this contract. The Contractor shall ensure that it and its officers, employees, agents and subcontractors comply with the requirements of 24 Pa. Stat. § 1-111(j), which mandates 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 Pa. Stat. § 1-111(e). The Contractor shall provide notice to the School District, within forty-eight (48) hours, all notices and reports required, and all checks conducted, under § 1-111(j).

5. **School District Self-Insured; Immunities.** The Contractor acknowledges and agrees that the School District self-insures for liability and property damage purposes. Any other provision of this contract to the contrary notwithstanding, the School District, its officers, employees, and the members of the Board of Education and the School Reform Commission, retain their statutory governmental, official and any other immunity provided pursuant to the laws of the Commonwealth of Pennsylvania, including under 42 Pa. Const. Stat. Ann.. §§ 8501 and 8541 *et seq. as amended*. The Contractor acknowledges and agrees that the School District, including the School, (a) is a Local Agency, as defined in 42 Pa. Const. Stat. Ann.. §§ 8501 and 8541; and (b) does not waive, nor have the power to waive, for itself or for its officers, employees, and the members of the Board of Education and the School Reform Commission by way of indemnity or otherwise, the defenses of governmental, official or any other immunity derived from said statutes or provided by law.

6. **Conflict of Interest.** The Contractor warrants that it has no public or private interest which conflicts or may conflict in any manner with the performance of the work and that neither it, nor any of its directors, officers, principals, employees or subcontractors shall acquire directly or indirectly any such interest. The Contractor shall disclose promptly and fully to the School District all interests which may constitute such a conflict. The Contractor shall not share any portion of the compensation or fees paid by the School District for services hereunder with any individual if such individual, holds, or has held in the past year, a position of substantial responsibility with the School District or if such individual participated in any way on behalf of the School District in developing this contract. The Contractor acknowledges that this contract is subject to the School District’s Code of Ethics.

7. **Employee Status.** Neither the Contractor nor any of its agents, employees or subcontractors shall be deemed to be an employee of the School District, and neither the Contractor nor any of its agents, employees or subcontractors shall be entitled to any of the benefits of a School District employee.

8. **Debarment; Certification.** The Contractor hereby certifies for itself, its affiliates, principals, and subcontractors, if any, that none of them are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from performing the services under this contract or any other contract, bid or request for proposals by any federal, state or local governmental entity, including but not limited to the School District. If such certification is erroneous or if it becomes erroneous by reason of changed circumstances, the Contractor shall provide immediate written notice to: The School District of Philadelphia, Office of General Counsel, 440 North Broad Street, 3rd Floor, Philadelphia PA 19130-4015, Attention: General Counsel.

9. **Indemnity.** The Contractor shall defend, indemnify and hold harmless the School, the School District, its board members, agents, officers, and employees, and the members of the Board of Education and the School Reform Commission, from and against any and all claims, losses, liabilities, expenses and damages of any kind, including costs and attorneys' fees, in connection with or arising out of the acts or omissions of the Contractor, its officers, agents, employees or volunteers in performing its obligations under this contract.

10. **Default.** If the Contractor fails to comply with any of the covenants or conditions of this contract, fails to perform the services described in this contract or breaches any of the representations or warranties herein, the School District may declare an event of default. The School District shall have the right to one or more of the following remedies upon the occurrence of an event of default: (1) to complete the services, with the Contractor liable for any excess costs incurred; (2) to terminate the contract; (3) to receive specific performance; (4) to recover money damages; (5) to withhold all or part of compensation due; or (6) any and all other legal and equitable remedies.

11. **Property Rights; Compliance with Law.** The services and any materials provided by the Contractor under this contract (excluding any materials provided by the School District for use by the Contractor) shall not infringe on any valid patent, trademark, trade name or copyright, and the Contractor will, at its own expense, defend any and all actions or suits charging such infringement and hold the School District harmless in the case of such action or suit. The Contractor shall carry out all services hereunder and any associated materials in compliance with applicable federal, state and local law. The Contractor acknowledges and agrees that all original work created by the Contractor as part of its services hereunder are specially ordered by the School District and shall be considered "work for hire" as defined in 17 U.S.C. § 101(2).

12. **Recourse Limited.** Liability and obligations under this contract, whether fixed or contingent, shall extend only to student activity funds of the students of the School collected by students and teachers of the School for deposit in the student activity fund accounts maintained by the School. Any other term, covenant, clause or condition of this contract to the contrary notwithstanding, the School District shall not be liable for any claims, costs, expenses or liabilities, fixed or contingent, accruing under this contract, except, as noted in the preceding sentence, to the extent of student activity fund accounts maintained by the School, all other liability being hereby unconditionally and irrevocably waived. In addition to the foregoing contractual recourse limitation, the Contractor acknowledges and agrees that the School District executes and delivers this contract solely under and pursuant to 24 P.S. § 5-511(d), part of the Pennsylvania Public School Code, and therefore the Contractor acknowledges that School funds are not funds of the School District and the School District has not authorized or obligated any School District funds for any payment under this contract.

13. **Incorporation by Reference; Order of Precedence; Severability and Partial Invalidity.** This Addendum is attached to, forms a part of, and is hereby incorporated by reference in the contract to which the parties have attached it. In the event any term or condition set forth in this Addendum may vary from, conflict with or be contrary to any term or condition set forth in the contract to which the parties have attached it, the terms of this Addendum shall control over any such term or condition of the contract. If any provision of this contract is held to be invalid, or unenforceable, such invalidity or unenforceability shall not affect or impair the remaining provisions, which shall be considered severable and shall remain in full force and effect.

14. **Choice of Law; Venue.** This contract shall be construed and enforced under the law of the Commonwealth of Pennsylvania, regardless of its conflict of laws provisions. In the event that the parties cannot resolve any dispute

between them, and one party resorts to legal action, such party must file suit in state or federal court in Philadelphia County, Pennsylvania. The parties irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have, including any claim of forum non conveniens or similar doctrine or theory, to venue in the courts located in the Commonwealth and each of the parties consents to the personal jurisdiction of such courts (and of the appropriate appellate courts therefrom) and to service of process upon them in accordance with the rules and statutes governing service of process in any such suit, action or proceeding.

15. **Notice; Successors and Assigns.** All required notices or communications under this contract must be given in writing, and must be personally delivered, by hand with receipt obtained, by a national overnight express carrier, or by registered or certified U.S. mail, return receipt requested, postage prepaid, addressed to the persons signing this contract. The parties to this contract bind themselves, their heirs, executors, administrators, successors, permitted assigns, and legal representatives for the performance of this contract.

16. **Survival; No Third Party Beneficiaries.** Any provisions of this contract which may be performed after termination of this contract shall survive and be enforceable after such termination. Nothing contained in this contract is intended to benefit any third party except the School District.

17. **No Waiver; No Subcontracting and Assignment.** No term or provision of this contract shall be deemed waived by the parties, unless such waiver or consent is in a writing signed by both parties. No breach shall be excused, unless the agreement to excuse such breach is in a writing signed by the non-breaching party. No party shall subcontract any services or work to be performed under this contract without the prior written approval of the other party. No party shall assign any monies or payments under this contract without the prior written consent of the other party.

18. **Counterparts/Electronic Signatures.** 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. A signed copy of this contract delivered by facsimile, e-mail or other means of electronic transmission shall have the same legal effect as delivery of an original signed copy of this contract. This contract and any true, correct, and complete counterpart thereof may be executed either (a) on paper with an ink signature or (b) by due, secure electronic method, and any true, correct, and complete counterpart may be transmitted by e-mail or other electronic means. For avoidance of doubt, any true, correct, and complete counterpart may be converted from paper to electronic form, or from electronic form to paper, and such converted true, correct, and complete counterpart shall be deemed an original for transmission, execution, delivery and retention pursuant to the Electronic Signatures in Global and National Commerce Act, Title 15, United States Code, Sections 7001 et seq.

19. **Entire Contract.** This contract, which includes this Addendum, contains the entire and integrated contract between the parties, supersedes all prior negotiations, representations, contracts and undertakings between the parties, and cannot be changed, modified or amended except by a written contract signed by both parties. No amendment or modification to this contract shall have any force or effect unless it is in writing and signed by both parties.

IN WITNESS WHEREOF, the School District and the Contractor, intending to be legally bound, have executed and delivered this Addendum and the contract to which it is attached and of which this Addendum forms a part, as of the date set forth in said contract.

SCHOOL:

CONTRACTOR:

The School District of Philadelphia _____

By: _____
Name: _____ [print]
Principal

By: _____
Name: _____ [print]
Title: _____ [print]

Approved as to form:

Attorney, The School District
of Philadelphia