

**(ATTACHMENT 2) INFORMATIONAL REPORT AND ACTION ON A
REQUEST TO APPROVE CONTACTS FOR MPS (T4U)
TUTORING SERVICES**

PR#: _____

PO#: _____

VN#: _____

**AGREEMENT REGARDING THE
PROVISION OF ACADEMIC TUTORING
2012-13
FOR THE TUTORING 4 YOU PROGRAM**

This AGREEMENT is entered into this 28th day of September, 2012, by and between the Milwaukee Board of School Directors (“MPS”) and _____ (“Partner”) and shall be effective from the date of execution.

WHEREAS, beginning with the 2012-13 school year, Wisconsin’s Department of Instruction (DPI) will no longer mandate the provision of Supplemental Educational Services (SES) under the federal No Child Left Behind Act; and

WHEREAS, although the administration of SES will no longer be required by law, MPS has chosen to continue after-school tutoring services with many of the state-approved SES Providers during the 2012-13 school year; and

WHEREAS, the MPS “Tutoring 4You” (T4U) program will target focus schools identified by Wisconsin’s DPI; schools that show large gaps in reading or mathematics scores, gaps in graduation rates between subgroups, and/or low performance by high-need subgroups have been identified as Focus schools, and

WHEREAS, School Learning Teams will work to identify students from each of the Focus schools as potential candidates for the T4U program; each school will have a limited number of seats allotted for tutoring interventions; students recommended for the program will receive direct mailings from MPS and applications that will be submitted to the Extended Learning Opportunities (ELO) Office; and

WHEREAS, the ELO Office and members of the School Improvement Team will assign the tutoring providers to specific school sites; and

WHEREAS, Partner has been selected to provide tutoring services, as described herein, to all eligible Participating Students at the school sites assigned by MPS to Partner; and

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

I. TERM

This Agreement shall commence upon full execution of the Agreement and terminate on May 16, 2013.

Partner is not authorized to provide services and shall not be compensated for services begun before Partner receives a fully executed contract and has been given approval by MPS to proceed.

II. SCOPE OF SERVICES

Partner shall provide tutoring services, described herein, to each MPS student (“Participating Student”) assigned by MPS to Partner’s Program, that shall be consistent with this Agreement and with all applicable federal, state and local health, safety and civil rights laws, rules and regulations. Partner shall provide all necessary equipment, materials and supplies to effectively offer the tutoring services to Participating Students. Partner shall perform the following services:

1. When available, Partner shall use results from the WKCE and MPS’ Measures of Academic Progress (“MAP”) in lieu of a commercial pre-test. Only where WKCE or MAP data is not available may Partner use a different benchmark test (pre-test). That test must be submitted to the ELO Office electronically on CD at least 10 calendar days prior to the enrollment periods. The pre-test must be an appropriate, nationally recognized diagnostic assessment for use in identifying students’ weaknesses and achievement gaps upon which to build an individual student plan and learning goals and must be administered to provide statistically

relevant data. The ELO office must approve that a test meets these specifications prior to use of the test. The pre-test must be aligned to both the Wisconsin Student Assessment Systems Criterion-Referenced Test Framework for Reading, Mathematics and Science and to the curriculum used by the student's day school. Partner shall pre-test each Participating Student using this test.

2. Partner shall develop a proposed individual Learning Plan ("LP"), an example of which is attached as Exhibit A and incorporated herein by reference, in conjunction with school's site coordinator or school principal's designee and the Participating Student's Parents/Guardians. The LP shall be based upon the most recent WKCE results and the MAP test results. If none of these results is available, the LP should be based upon the results of the pre-test selected by the Partner. The LP must delineate the specific goals for the Participating Student to achieve and a timetable for achievement. In the case of a student with a disability, the LP must be consistent with the student's Individualized Education Program ("IEP"), and in the case of a student covered under Section 504, must be consistent with the provision of an appropriate education under Section 504. MPS may approve, reject, or modify the LP. Once approved by MPS, the LP shall become a part of this Agreement by amendment thereto. The LP shall be distributed as set forth in section III.
3. Partner shall employ a sufficient number of qualified and properly trained persons to effectively offer tutoring services. Partner shall maintain a list of qualified and properly trained substitute personnel to ensure continuity of services in cases of extended staff absences. All tutors shall be employees of Partner and no tutors may be independent contractors.
4. All persons who provide tutoring services for Partner under this Agreement shall be "highly qualified." "Highly qualified" means that the educator is fully licensed in the core academic subject he/she is teaching. An educator working under an emergency license/permit is also considered "highly qualified" if he/she has: (1) demonstrated content knowledge in the core academic subjects he/she is teaching through a major or minor in that subject or a passing score on the appropriate Wisconsin Content Knowledge exam; (2) is enrolled in an approved educator training program that will be completed in three school years; and (3) has participated in district-provided high quality professional development before and while teaching and received intensive supervision or mentoring while teaching.
5. Partner shall continue the provision of services to all Participating Students consistent with the LP. Should Partner fail to provide services for students registered in its program within 30 days of the information being uploaded to the APlus program, the student may be automatically reassigned to another Partner by the ELO Office and Partner's contract may be terminated in accordance with Sec. VIII.A.
6. Partner shall not provide homework help during the tutoring sessions. Tutoring sessions must be skills-based to address the individualized skills identified for improvement in the LP, and must be aligned with District targets, state standards, and Common Core State Standards for the appropriate subject and grade levels.
7. Tutoring services provided under this Agreement shall be consistent with the academic program a student experiences in the regular school day.
8. Partner shall provide a written Progress Report to the parents/guardians when the Participating Student has received 50% of the allowable services to the parents/guardians. A copy shall also be provided to the Participating Student's day school and to MPS ELO Office. Partner may provide Progress Reports on a more regular basis or as requested by Parent/Guardian or school. Copies of all Progress Reports shall be maintained at Partner's place of business and the tutoring site, and shall be made available to the MPS ELO Office and the Participating Student's parent or guardian upon request. All progress reports must be provided on a CD to the ELO Office with the final invoice. Progress report must be completed in the electronic system APlus. Partner must print the APlus Status Report list and submit with the monthly invoice.
9. Partner shall ensure that 90% of the Participating Students enrolled begin tutoring services with 30 days of the last fall /spring enrollment placement.

10. Partner shall ensure that 80% of the Participating Students who begin services complete services. Completion of services means that the per pupil allocation has been met.
11. Partner shall ensure that 90% of the participating students are pre-tested and post-tested.
12. The final day for tutoring services shall be May 16, 2013 for the 2012-2013 school year.
13. Partner shall not provide more services than what MPS has approved. MPS will not pay for any services provided in excess of the approved amount.
14. Partner shall not provide services to a student during any time when public funds are being used to provide for the care of the student.
15. All services shall be provided at Partner's assigned MPS school site or, upon written approval of MPS, on-line using a live tutor and class proctor in a school setting.
16. Partner shall submit a list of tutors and students assigned to each tutor in alphabetical order.
17. Tutor assignments shall not change, except when a substitute tutor is necessary due to absence of a regular tutor. Tutor assignment log sheets must be consistent and reflect each tutor's current assignment. In the event a tutor is removed, Partner shall provide the ELO Office with a list of the affected students and their new assigned tutor.
18. Transportation for Participating Students is the responsibility of Partner. MPS has no obligation to provide transportation in connection with this Agreement. Partner is required to provide the Principal and ELO Office with a list of students transported by a company bus, chartered yellow school bus, and those provided a bus ticket.
19. Partner shall not offer tutoring services for credit or credit recovery, or in conjunction with other MPS tutoring.
20. Partner must electronically submit Partner's staff manual, dates of training, location of training, agendas for each training date, and sign-in sheets for all staff members in attendance at the training sessions. Training dates and the location of training must be submitted to the ELO Office 10 calendar days prior to the training session. All materials from the training sessions shall be submitted five calendar days following the training session.
21. Partner shall cooperatively participate in external and internal ELO Office evaluations.
22. Partner shall include a post-assessment linked to each student's diagnostic assessment to determine whether student gains occurred and to further develop a plan for either re-teaching skills or identifying new skills for instruction. The assessment shall be the MAP or WKCE, if that was the assessment initially used, or the post-test approved by MPS if the Partner's Pre-test was used. Partner shall submit pre/post test schedule electronically ten calendar days prior to event.
23. Partner shall meet individually with parents/guardian at the end of Partner's program to discuss student's progress over the course of the year, and to obtain the parent/guardian assessment of Partner's program through the on-line Parent survey.
24. Partner shall provide any and all curricula, equipment, and any other materials necessary to perform the services set forth herein.

III. PARTNER REQUIREMENTS

In providing the services pursuant to section II, Partner shall strictly adhere to the following:

1. Partner shall submit the original LPs in alphabetical order to MPS with each submitted invoice. Partner shall obtain the approval of the Participating Student's parent/guardian, as indicated by parent/guardian signature, and provide parent/guardian with a copy of the LP. Services may commence one day after the Parent/Guardian has signed the LP.
2. By October 1, 2013, Partner shall submit audit data from July 1, 2012 through June 30, 2013.
3. Partner shall submit a copy of the Partner 2012-13 Scope of Service contained in APlus, attached hereto as Exhibit B and incorporated herein by reference. The Scope of Service includes both general information and course information. Partner shall also submit its Taxpayer ID number.
4. All tutoring services must take place outside the school day. Partner shall ensure there are Safety Personnel in the building when tutoring is held. The Safety Personnel shall keep a log of the dates and times Participating Students sign in and out (the Safety Sign-in Sheet or Attendance Roster). The Safety Sign-in Sheet/Attendance Roster, which is attached hereto as Exhibit C and incorporated herein by reference, shall be submitted with the monthly invoice.
5. Partner shall keep, and on request provide to the ELO office, all information relevant to the services provided herein, including, but not limited to, the information set forth below. For purposes of this Agreement, documents contemporaneously printed out from the APlus system will suffice for "**original**" documents. Items below marked with an asterisk must be entered into the APlus Management System as the information becomes known:
 - a. A fully executed Master Agreement with all requirements met (including insurance and background checks).
 - b. An "original" LP signed by the parent/guardian (and provider) in order to receive tutoring services.
 - c. "Original" Student Daily Attendance Rosters in alphabetical order.* Failure to submit weekly attendance in APlus may result in reassignment of students due to inactivity and loss of payment for services rendered.
 - d. An electronic copy of the pre-test and post-test for each student receiving services on CD.
 - e. Provide via spreadsheet an alphabetical list of students and tutoring hours completed.
 - f. For Partners using MPS sites for tutoring services, an MPS building permit.
 - g. An "Emergency Response Plan" for each location in which Partner is providing services, a copy of which is attached as Exhibit D and incorporated herein by reference. Partner shall also attach a full set of building Floor Plans and the school's "Crisis Plan" to each copy of the Emergency Response Plan submitted.
 - h. Electronic copies on CD of all grade level curriculums used for Participating Students.
 - i. Copies on CD of all communications sent to parents/guardians and schools for each Participating Student. Monthly communication logs must be submitted with invoice.
 - j. Documentation regarding performance of the monthly fire drill, attached as Exhibit E and incorporated herein by reference.
 - k. A complete listing of all employees, with new employees marked with an asterisk, with proof that each employee's background check has been completed; listing must be submitted in alphabetical order, listed by MPS and non-MPS employee, and contain the employee's home address, personal phone number, and date the criminal background check was submitted for review to MPS. All original Department of Justice (DOJ) documents must be submitted to the ELO Office.

- l. Partner shall submit to the ELO Office the dated letter used to inform a prospective employee he/she is not eligible for employment based on the criminal background check data.
 - m. The Safety Sign-in Sheet/Attendance Roster for each Participating Student during each Invoicing Period.
 - n. Partner sign-in sheet for each Partner tutor working for Partner on a given night at a given location.
 - o. Upon receipt of the assigned student list, Partner shall schedule an orientation conference with the school principal. During such conference, Partner and principal will develop an outreach plan to contact parent/guardian. The principal and/or designee will explain all policies, procedures and guidelines related to the delivery of services on school property. The principal and/or designee shall identify the school's designated tutor coordinator.
6. During the term of this Agreement, Partner shall meet with MPS representatives to discuss Partner's overall program or an individual student's progress at such times and at such frequency as MPS may reasonably request.
 7. Partner shall notify the MPS ELO Director of any correspondence received from the United States Department of Education or the Wisconsin Department of Public Instruction that requires a formal response from either the District or Partner.
 8. Partner shall ensure that all instruction and content are secular, neutral, and non-ideological.
 9. Partner shall respond to written parent/guardian complaints in writing within seven days and shall immediately provide a copy of both the complaint and the response to the ELO Office.
 10. Partner shall attend the monthly meetings scheduled by the MPS ELO Director. Partner shall also attend any special meetings scheduled by the MPS ELO Director. Failure to attend may impact future contracts with MPS.
 11. Should Partner choose to provide snacks to students, it shall be required to provide healthy and nutritious snacks, as recommended by MPS School Nutrition Services, a copy of which is attached as Exhibit F and incorporated herein by reference. No meals may be served. No peanuts or products containing peanuts may be served. Requests for variance to the recommended snacks, due to extenuating circumstances, shall be submitted in advance to the ELO Director. No items otherwise precluded may be given out during this time.
 12. Partner shall provide all equipment, materials, computers, and supplies needed to effectively offer the tutoring services. Partner shall keep all equipment, materials, and supplies used in the provision of the tutoring services in good and safe working condition. Partner shall be responsible for repairing and/or replacing damaged or broken equipment, materials, and supplies belonging to the Partner and MPS Schools. Partner may not use MPS computers, computer programs, or other supplies.
 13. In no event shall the student:tutor ratio exceed 5:1.
 14. Partner shall not cancel services at any school due to low enrollment numbers. All students registered with Partner shall be afforded the opportunity to complete the required number of tutoring hours offered by Partner.
 15. In no event shall Partner provide Participating Students with incentives, including, but not limited to, cash or gifts to encourage students to attend or participate in tutoring sessions.
 16. Partner shall begin tutoring 30 days prior to the end of the last day of the contract. Partners submitting LPs for approval less than 30 days prior to the end of the last day of the contract will not be approved.

17. When serving students with disabilities, Partner shall make all necessary and appropriate accommodations and/or modifications to ensure each student can access tutoring services. Services shall be provided in a manner that is appropriate under a Participating Student's IEP.
18. Any Participating Student who is an ELL student with a LAU level up to 2.9 shall be instructed (tutored) in his/her instructional language.
19. As a sub-recipient of federal funds, Partner shall comply with all state and federal requirements regarding all data, documentation or innovation developed as a result of these contracted services.
20. Partner shall comply with Wis. Stat. § 118.25(2) (a) regarding health examinations of all employees working with students.
21. If Partner provides online services under this contract, Partner shall supply MPS with all website addresses, passwords, and any other information necessary to allow MPS unrestricted access to Partner's online services for monitoring purposes.
22. Except in cases of emergency, Partner shall not cancel a tutoring session. Partner must give notice to the ELO Office of any cancellation within 24 hours of the cancellation. If notice cannot be given to the Student Participants before they attend the session, Partner shall ensure the Student Participants are properly supervised. In no event shall Partner be compensated for a cancelled session.
23. Partner shall submit a written accident report, attached as Exhibit G and incorporated herein by reference, to the ELO Office within 24 hours of being made aware of an accident or incident where a student has suffered an injury, injured another individual, or has been involved in an activity requiring notification of law enforcement or emergency personnel.
24. Partner shall ensure that all staff members, including volunteers, are annually trained in Wisconsin's Child Abuse or Neglect mandatory reporting laws, set forth in Wis. Stat. § 48.981, and shall ensure that all laws, rules and regulations are complied with. In addition to any other legal requirement, Partner shall submit to the ELO Office a report by facsimile or mail within twenty-four (24) hours of any incident involving allegations of molestation, child abuse, neglect, or missing children under Partner's supervision.
25. Partner shall not fine or penalize employees or withhold compensation for services provided.
26. Partner shall notify the Parent/Guardian and MPS in writing when the per-pupil allocation for a Participating Student has been exhausted.
27. Partner shall not compensate (pay) Participating Student for attending T4U session.

IV. REGISTRATION

1. MPS shall determine which students are eligible to participate in the T4U Program.
2. The Parent/Guardian must fill out and submit a district enrollment form to MPS central services, ELO Office, Room 261.
3. Upon receipt of the district enrollment form, the ELO Office will officially register the student and update all registrations each Wednesday. Parents/guardians will be notified of their child's successful registration by the ELO Office.
4. Under no circumstances shall Partner engage in a public relations campaign or attempt to recruit students in any way.
5. Each T4U site will have a limited number of seats allotted for tutoring.

V. COMPENSATION

The total compensation under this Contract shall not exceed \$1,400 per student per school year, at the hourly rate of \$35.00. Each student shall receive 40 hours of tutoring intervention. .

All documentation and invoices required to receive compensation must be submitted to:

Sandy Schroeder
Milwaukee Public Schools
Summer School/ELO Office
5225 W. Vliet Street, Room 261
Milwaukee, WI 53208

MPS **shall make no payment** for services, rendered or not, that are **provided before** the ELO Office has ALL of the following on file:

1. The original signed LP in alphabetical order for each student receiving services, approved by the ELO Coordinator.
2. An electronic copy of the pre-test used to assess students' level, if applicable.
3. A CD copy of the Pre-Test for each student receiving services, if applicable.
4. CD containing every student's pre-test, if applicable.
5. A fully executed Agreement with all requirements met (including, but not limited to, insurance and background checks).
6. Completed criminal background checks for all employees, including each employee's name, home address and personal phone number.

A properly submitted invoice with appropriate back-up documentation attached must be submitted each month before any payment will be made. Rejected invoices may not be re-submitted.

Detailed information regarding these MPS mandated items is included in the ELO Partner LP's and Invoicing Procedures, Guidelines, and Recommendations document included in the ELO Handbook, a copy of which has been given to Partner. The ELO Handbook is incorporated herein by reference and is on file in the ELO Office. Partner shall follow the procedures set forth in that document, including, but not limited to, the following:

1. Follow Invoice Checklist.
2. Submit the original student LP signed by the Parent/Guardian and Partner.
3. Provide a complete alphabetical listing of all employees, with new employees marked with an asterisk, with proof that their background checks have been completed.
4. The invoice shall include the name of the tutor providing services, location of services, CBC ("Complete Background Check") approval, and a list of all students receiving services, organized by site. The full first and last name of the student receiving services must be included (initials will not suffice).
5. Provide updated tutor/student charts that are alphabetized by tutor location.
6. Maintain and provide the original monthly Daily Attendance Rosters for all Participating Students, with Participating Students sign in and sign out. The Daily Attendance Roster must contain the full name of the tutor and the date, time, and student signature. A sample of the Daily Attendance Rosters is attached as Exhibit H, and incorporated herein by reference.
7. Maintain and provide documentation of Accident Reports filed.
8. Maintain and provide documentation of Parent Communications (Parent Log).
9. Maintain and provide documentation of School Communication (Student Log).

10. An invoice must be printed from the APlus on-line system, a sample of which is attached as Exhibit I and incorporated herein by reference.
11. Attendance rosters must be printed from the APlus on-line system, a sample of which is attached as Exhibit J and incorporated herein by reference.
12. The Employee & Safety weekly sign-in and sign-out for each Participating Student during each invoicing Period.
13. Progress Reports must be completed at a minimum at the 50% service level. Schools and parents may request monthly progress reports. All progress reports must be completed in the APlus Management System.
14. Partner must submit on CD the pre-test with the first invoice and post test data with the final invoice.

MPS shall disallow all or part of the invoice if any portion of the services are not delivered in strict accordance with this Agreement and the invoicing requirements set forth herein. In particular, MPS shall disallow payment in whole or in part as set forth below:

1. MPS funds under this Agreement shall only be used to pay for actual tutoring services. Funds shall not be used for snacks, baseline assessments, pre- or post-tests, or break time.
2. **MPS shall not pay** for services in excess of the hours of service allowed under this Agreement.
3. **MPS shall not pay** for services provided to students who transfer from a school eligible for tutoring services to a non-eligible school.
4. **MPS shall not pay** for pre-testing or post-testing sessions.
5. **MPS shall not pay** for services delivered in a location different from the MPS assigned school.
6. **MPS shall not pay** for services provided to students if the invoice is not received within 30 days of delivery of service, even if services have been provided.
7. **MPS shall not pay** for services for a student unless that student is fully registered in the APlus system and on the enrollment roster for a Partner, even if services have been provided.
8. **MPS shall not pay** for a student who is absent or not in attendance for any reason.
9. Invoices that are submitted without the proper documentation will not be paid.
10. Partner **may not re-bill** for monthly invoices or parts of the final invoice that are rejected.
11. **MPS may withhold payments** for services delivered to any student prior to having an approved LP on file with MPS.
12. MPS shall pay all invoices by U.S. Mail.
13. **MPS shall not pay** Partner's services when the school district is closed for issues related to weather, or other emergency situations.
14. **MPS shall not pay** for services provided prior to an employee's criminal background check clearance.

Final invoices shall be submitted within 15 days after services have been provided (May 16), and in no event later than **4:00 p.m. on May 31, 2013**. Invoices submitted after this date and time **will not be paid**. Payment **will not be made** unless and until all of the following information is received:

1. The same information that must be submitted for all monthly invoices.
2. A copy of the post-test for each Participating Student on CD, if applicable.
3. Final evaluations for each Participating Student.

4. All other requirements of this Agreement have been met (Evaluation reports turned in; student progress reports completed; building services fees paid).

Any exceptions to the requirements set forth in this section must be made by prior written consent from the ELO Office.

MPS reserves the right to exercise **set off rights** against any invoice if Partner owes MPS any refund for tutoring services for which Partner was compensated in error or contrary to the provision of this Agreement, or if Partner is more than 15 days overdue on an MPS building permit. Partner will be charged a flat rate for school safety services, which shall be provided by MPS. School safety shall sign in on the daily log sheet.

As a matter of practice, MPS attempts to pay all invoices in 30 days. State Prompt pay law does not apply to this Contract. Payment for invoices received after the 15th of the month will be processed in the order in which they are received.

VI. BACKGROUND CHECKS

Partner shall ensure that each of its employees, agents, volunteers, sub-contractors or anyone else providing services on behalf of Partner (“Partner Personnel”) has a criminal background check that ensures that no tutoring services Partner Personnel has a conviction indicating that the personnel would endanger the health, safety, welfare, or education of any pupil, notwithstanding Wis. Stat. § 111.335. For purposes of this Agreement, a volunteer is any non-paid person who provides services on a regular or ongoing basis for more than five hours a week. Other individuals subject to this provision include, but are not limited to, those performing the following functions: (1) Persons, paid or unpaid, who participate in person or online in representing Partner to eligible students; (2) persons, paid or unpaid, who provide information about tutoring services to eligible students, recruit eligible students, develop LPs with eligible students or conduct assessments prior to setting LP goals; (3) persons, paid or unpaid, who have any unsupervised contact with students online or in person, or who provide any type of unsupervised instructional services to students, including online service; or (4) persons, paid or unpaid, who have any unsupervised contact with students prior to, during, or after tutoring sessions.

All criminal background checks must be completed through the State of Wisconsin Department of Justice. Partner may download the latest forms from the DOJ website <http://www.doj.state.wi.us/dles/cib/crimback.asp>. Partner shall complete form: DJ-LE-250A Wisconsin Criminal History Multiple Name record Request. Partner shall send completed forms to DOJ with a check to cover the cost. All records must be submitted to the ELO Office.

The Volunteers for Children Act allows Qualified Entities to receive criminal history information from the FBI when fingerprint cards are submitted. Forms to register as a Qualified Entity may be found at www.doj.state.wi.us/dles/cib/forms.

If you have questions, contact:

Wisconsin Department of Justice
Crime Information Bureau
Record Check Unit
PO Box 2688
Madison WI, 53701-2688
Ph 608-266-7314
Email: INTCH@doj.state.wi.us

All Partners’ and all employees’ background checks shall be completed prior to the commencement of services under this contract. MPS will NOT be responsible for the payment of any services rendered by Partner before the completion of the criminal background checks.

Factors that may lead to the disqualifying of tutoring services Partner Personnel include, but are not limited to, falsification of background information, conviction of a criminal offense that substantially relates to the duties and responsibilities to be assigned to and/or performed by Partner under this Agreement, or pending criminal charges alleging acts of a similar nature.

Partner shall provide the name, home address, personal phone number, and tutoring location site of all of the Partner Personnel having criminal background checks in alphabetical order on the form provided in the ELO Handbook to:

Sandy Schroeder
Milwaukee Public Schools
Summer School/ELO Office
5225 W. Vliet Street, Room 261
Milwaukee, WI 53208

All original Criminal Background Checks shall be submitted to the ELO Office. Failure to submit the results of any criminal background checks prior to the provision of services **shall result in the termination of services**.

VII. CONFIDENTIALITY OF PUPIL RECORDS, DATA, AND INFORMATION

Partner may be given access to pupil records determined by MPS to be necessary to fulfill Partner's obligations under this Agreement. As a condition of access to pupil records, Partner agrees to comply with state and federal law regarding the confidentiality of pupil records. Partner must sign and return Statement of Non-Disclosure of Released Information before services commence. The Statement of Non-Disclosure of Released Information is attached as Exhibit K and incorporated herein by reference.

Partner acknowledges that the student records and the information contained therein is protected by both federal and state law. *See* Wis. Stat. § 118.125; 20 U.S.C. § 1232g (b); 34 C.F.R. § 99.1, et seq. If MPS determines that Partner has disclosed any student record or information contained therein, in violation of either federal or state law, MPS is entitled to immediately terminate this contract, as set forth more specifically herein, without prejudice to any other rights or remedies that MPS may have.

Partner agrees to ensure it will not disclose, publish, or disseminate any information it obtains from or develops for MPS under this Contract. Specifically, Partner shall not disclose the identity of any student eligible for or receiving tutoring services from Partner, or personally identifiable information regarding that student.

Partner agrees to take all reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of pupil records or personally identifiable information and work product obtained from or developed for MPS under this Contract. Partner agrees not to use, publish or disseminate information and work product for its own or any third party's benefit without the prior written approval of MPS.

Any and all information produced pursuant to this Contract is proprietary to MPS and no license or other rights to such information is granted or implied hereby.

VIII. TERMINATION

A. MPS Right to Terminate For Cause

MPS reserves the right to terminate this Contract on 10 days written notice, by registered or certified mail, should MPS in its sole discretion, determine that any of the following has taken place:

1. Partner has violated any of the terms of this Agreement.
2. Partner has violated any of the terms set forth in the Partner Handbook, which is incorporated herein by reference.
3. Partner attempts to invoice for a cancelled session.
4. Partner has charged for more hours than have actually been provided or for students who have not attended a session.
5. Partner has failed to provide services due to lack of enrollment.

6. Partner has failed to demonstrate academic growth in its students, measured using the pre- and post-MPS MAP tests, which should show growth from fall to the following spring.
7. Partner has received an auditor's opinion that is other than unqualified.

MPS reserves the right to immediately terminate this Agreement if, in its sole discretion, it determines that failure to do so would endanger the safety of its students or staff.

In the event of termination, MPS will only be liable for services rendered through the date of termination and not for any uncompleted portion, or for any materials or services purchased or paid for by Partner for use in completing the Agreement.

B. MPS' Right to Allow Partner Opportunity to Cure Violation

MPS may, in its sole discretion, give Partner notice of a violation of this Agreement and give 10 days written notice to cure. Should Partner fail to cure the violation within 10 days to MPS' satisfaction, MPS may terminate the contract upon a final notice of termination sent by certified or registered mail. In the event of termination, MPS will only be liable for services rendered through the date of termination.

C. MPS' Right to Terminate Individual Student Services

MPS reserves the right to terminate an individual student's services with Partner should Partner fail to meet the student's specific achievement goals on the timetable set forth in the LP.

IX. FACILITIES USE

Partner shall provide tutoring services at the assigned MPS buildings. MPS facilities will be provided at no cost to Partner if Partner obtains a proper building permit. Partner shall obtain a Building Permit through MPS Division of Recreation & Community Service (fax: (414) 773-9982 or email: schoolpermits@milwaukee.k12.wi.us). Requests must be made at least two weeks in advance of the anticipated date of use. Permits may be requested by semester only. Permits will be issued for October thru January and February thru May. Partner must review the school calendar of events and the dates the building is available for tutoring services. Partner must review the permit request with the Principal and request the signature of the Principal on the permit. Partner may not submit a permit without the Principal's signature. Partner must submit the school's calendar that indicates the open house, conference dates and testing windows, as well as other dates that will conflict with the tutoring sessions.

If Partner is canceling services on any given day, Partner must notify the school, the parents/guardians, the ELO Office (414) 475-8238, the MPS Division of Recreation & Community Service, the Division of School Safety, and the Division of Facilities & Maintenance 24 hours in advance.

If MPS Schools are closed for severe weather prior to the start of the school day, the ELO Program will automatically be cancelled and Partner will not be charged.

If Partner frequently cancel services, cancels services with less than a 24-hour notice, or fails to give proper written notice to the school, parents, students, the ELO Office (414) 475-8238, the MPS Division of Recreation & Community Service, the Division of Facilities & Maintenance & Division of School Safety and the MPS Insurance and Risk Management Office, Partner may have its building permit(s) revoked.

X. NON-DISCRIMINATION

In the performance of work under this Agreement, Partner shall not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex or handicap, which shall include, but not be limited to, the following:

Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Partner shall post in conspicuous places, available for employees of the Partner and applicants for employment, notices setting forth the non-discrimination provision.

When a violation of the non-discrimination provision has been determined by MPS, Partner shall immediately be informed of the violation and directed to take all action necessary to halt the violation, as well as such action as may be necessary to correct, if possible, any injustice to any person adversely affected by the violation, and immediately take steps to prevent further violations.

If, after notice of a violation to Partner, further violations of this section are committed during the term of the Agreement, MPS may terminate the Agreement without liability for the uncompleted portion or any materials or services purchased or paid for by Partner for use in completing the Agreement, or it may permit Partner to complete the Agreement but, in either event, Partner may be ineligible to participate in future contracts with MPS.

XI. INDEMNITY

Partner shall be required to defend, indemnify and hold harmless MPS, its agents, board members, officers and employees (the Indemnitee) from and against any and all actual or alleged claims, demands, actions, causes of action, injuries, personal injuries, contingent liabilities or damages and reasonable attorney fees, arising out of or in any way related to or associated or arising from the services rendered under the contracted agreement that are or may be brought or maintained by any individual or entity against the Indemnitee. This indemnification obligation shall include any actual or alleged claims or causes of action of any kind against the Indemnitee due to its decision to award a contracted agreement to Partner. This indemnification obligation shall not be reduced in any way by the existence or nonexistence, limitation, amount or type of damages, compensation or benefits payable under workers compensation laws or other insurance provisions. Under no circumstances is the Indemnitee's recovery limited due to the fact that MPS is named as an additional insured under any of the Partner's insurance policies. Partner agrees to accept tender of the defense of any claim or action against MPS falling within the scope of this indemnity.

XII. INSURANCE AND PROOF OF FINANCIAL RESPONSIBILITY

Partner understands and agrees that financial responsibility for claims or damages to any person or to Partner's employees, volunteers and agents, shall rest with Partner. Partner shall effect and maintain any insurance coverage, including, but not limited to, Workers' Compensation, Employers' Liability, Commercial General Liability, Contractual Liability, Professional Liability, Automobile Liability and Umbrella (excess) Liability to support such financial obligations. The indemnification obligation, however, shall not be reduced in any way by existence or non-existence, limitation, amount or type of damages, compensation or benefits payable under Workers' Compensation laws or other insurance provisions.

The minimum limits of insurance required of the Partner by MPS shall be:

A. Commercial General Liability:

Bodily Injury/Property Damage	\$1,000,000 per occurrence/\$2,000,000 Aggregate
Personal and Advertising Injury	\$1,000,000 per occurrence
Sexual Abuse and Molestation	\$1,000,000 per occurrence
Medical Expense Limit – Any One Person	\$10,000

Commercial General Liability shall be on an occurrence form covering the risks associated or arising out of the services provided under this contracted agreement. This insurance is not to have any exclusions, sub-limits, or restrictions as respects coverage for sexual abuse/molestation, corporal punishment, athletic events, and use of gymnasium equipment.

B. Automobile Liability (if vehicles are needed in the performance of services):

Bodily Injury/Property Damage	\$1,000,000 per occurrence
Uninsured/Underinsured Motorists	\$1,000,000 per occurrence

Business Auto Liability insurance including, but not limited to, Uninsured Motorists, Underinsured Motorists, and contractual liability for risks assumed in this contract covering the use of any vehicle in an amount not less than \$1,000,000 per accident. (Verification of this coverage is needed only if vehicles will be used while providing services under this contract).

- C. Umbrella (Excess) Liability:
 Bodily Injury/Property Damage \$4,000,000 per occurrence/\$4,000,000 Aggregate

The Umbrella Liability Insurance shall provide excess employer’s liability, commercial general liability, and auto liability coverage.

- D. Workers’ Compensation:
 Workers’ Compensation Statutory
 Employers’ Liability:
 Bodily Injury by Accident \$100,000 per occurrence
 Bodily Injury by Disease \$100,000 per employee
 Policy Limit: \$500,000

Workers Compensation at statutory limits and Employer’s Liability at \$100,000 per occurrence or sufficient limits to meet Umbrella underlying insurance requirements. Coverage shall be modified to include a Waiver of subrogation Endorsement in favor of Milwaukee Public Schools including its directors, officers, agents, employees, and volunteers.

- E. School Leader’s Errors and Omissions: \$1,000,000 per occurrence/\$2,000,000 Aggregate or Directors and Officers

Director’s and Officers insurance may be used in lieu of School Leader’s Errors and Omissions provided that the Insurance Company shows proof that all employees and volunteers are protected by the coverage.

- F. *Professional Liability:
 Wrongful Act \$1,000,000 per occurrence/\$2,000,000 aggregate
 G. Fidelity Bond/Crime Insurance: Limit of the “value of contract”

**Professional liability may be used in lieu of School Leader’s Errors and Omissions or Directors and Officers insurance only if Partner is a one-person independent contractor.*

Crime Insurance, in the form of either a Commercial Crime Policy or Financial Institution Bond, providing coverage for Employee Dishonesty, On Premises, In Transit (Theft Disappearance and Destruction Coverage Form and Robbery and Safe Burglary Coverage Form), Forgery / Alteration, Computer and Funds Transfer Fraud shall be carried in the amount of the total annual “value of the contract.” The “value of the contract” shall be calculated by multiplying the projected number of students Partner will be serving over the course of the school year by the maximum reimbursement rate per student.

Such insurance may be written with a deductible; however, such deductible shall not exceed \$10,000. The Milwaukee Board of School Directors (“MPS”) shall be named as loss payee with respect to losses involving property or funds provided under this contract by MPS. This policy is to cover all employees, officers, and board members of Partner and all of Partner’s contractors or subcontractors handling money, securities or other property of Partner.

MPS shall be named as an additional insured under Partner's general liability insurance and umbrella liability insurance.

The certificate of insurance or policies of insurance evidencing all coverages shall include a statement that MPS shall be afforded a thirty(30) day written notice of cancellation, non-renewal or material change by any of Partner's insurers providing the coverages required by MPS for the duration of this contract. Insurance companies must be acceptable to MPS and must have a current A.M. Best rating of A- or better.

XIII. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY FOR AWARD

By signing this document, Partner certifies:

- A. Neither Partner nor its principals are suspended, debarred, proposed for debarment, voluntarily excluded from covered transactions, or otherwise disqualified by any federal department or agency from doing business with the Federal Government pursuant to Executive Orders 12549 and 12689. Partner specifically covenants that neither Partner nor its principals are included on the Excluded Parties List System (“EPLS”) maintained by the General Services Administration (“GSA”).
- B. Neither Partner nor its principals, nor anybody providing services under this Agreement are presently indicted for, or otherwise criminally or civilly convicted of commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- C. Neither Partner nor its principals, nor anybody providing services has during the preceding three years had a public contract terminated for cause or default.

XIV. INDEPENDENT CONTRACTOR

Nothing contained in this Agreement shall constitute or be construed to create a partnership or joint venture between MPS or its successor or assigned and Partner or its successors or assigns. In entering into this Agreement, and in acting in compliance herewith, Partner is at all times acting and performing as an independent contractor, duly authorized to perform the acts required of it hereunder.

The manner in which Partner performs the services provided for hereunder including work hours, location, and other details of such services, shall be exclusively determined by Partner in consideration of the availability of facilities, students, and the normal working hours of the MPS departments involved. MPS shall have the right to control and direct the results of such services because, in the performance thereof, Partner is and shall remain independent (with the obligation solely on the Partner’s part to provide for and pay any contribution or taxes required by federal, state or local authorities imposed on or measured by income) providing consultation on the matters made the subject thereof. MPS understands Partner will engage in other business or trade for other persons or organization, at Partner’s discretion, during the time Partner is rendering services for MPS, providing such outside functions do not in any way restrict Partner in performing the services provided for in this Agreement.

Partner further agrees that MPS is not to be charged with the obligation or responsibility of extending any fringe benefits such as hospital, medical and life insurance, or pension plans which may be extended to employees of MPS from time to time and further agree to indemnify and hold harmless MPS and all its employees, officers and agents from any liability for personal injuries, including death, or for damage to or loss of personal property, which might occur as a result of the performance of the services provided for under this Agreement.

Partner agrees that Partner will not file any complaint, charge, or claim with any local, state or federal agency or court in which Partner claims to be or to have been an employee of MPS during the period of time covered by this Agreement and that if any such agency or court assumes jurisdiction of any complaint, charge or claim against MPS on Partner’s behalf, Partner will request such agency or court to dismiss such matter.

XV. ASSIGNMENT LIMITATION

This Agreement shall not be assigned by either Party.

XVI. NOTICES

Notices to MPS provided for in this Agreement shall be sufficient if sent by Certified or Registered mail, postage prepaid, addressed as indicated below. Notices to Partner shall be sufficient if sent by Certified or Registered mail, postage prepaid, addressed as indicated below, or to such other respective addresses as the parties may designate to each other in writing from time to time.

To MPS:

Sandy Schroeder
Milwaukee Public Schools
Summer School/ELO Office
5225 W. Vliet Street, Room 261
Milwaukee, WI 53208

To Partner:

XVII. AUTHORIZATION

The validity, construction, enforcement and effect of this Agreement shall be governed by the laws of the State of Wisconsin. All agreements and covenants contained herein are severable, and in the event any of them shall be held invalid by any competent court or agency, this Agreement shall be interpreted as if such invalid agreements or covenants were not contained herein.

XVIII. TECHNOLOGY REQUIREMENTS

In order to provide services under this contract, Partner shall have the following technology requirements in place:

1. Partner shall have either a PC computer with a 500 MHz processor, Windows 2000 or later operating system, and Internet Explorer 6.0 or later or Mozilla Firefox web browser; or an Apple MacIntosh computer with at least a Power PC processor, Mac OS software version 9.0 or later and Mozilla Firefox 3.0 or later web browser; and for either at least 20 MB available hard drive space, 1 GB RAM, a monitor capable of 1024x768 resolution, and Adobe Acrobat Reader 5.0 or later. Partner’s computer must have a quality printer for daily attendance rosters from the APlus Data Management System (recommended laser printer).
2. Two hours of phone/email support are available from Cayen Systems for the contract period. Hours in excess of two hours shall be billed to Partner on a monthly basis by Cayen Systems at a rate of \$85 per hour. Phone support will also be available during business days from the hours of 7:00 am – 4:30 pm.

XIX. AUDIT

1. Partner shall use appropriate cash management procedures so that public funds disbursed under this Agreement are discernible from other funds. Partner shall maintain adequate source records, including, but not limited to invoices, payroll records, time sheets, and receipts for up to three years after the termination of this Agreement.
2. Partner shall allow MPS or any authorized MPS representative to conduct a program evaluation and/or a contract compliance/financial audit of the program funded under this agreement at any time and as often as deemed necessary by MPS, for a period of up to three years following the expiration of this agreement. If an audit identifies costs as inappropriate, MPS shall be entitled to recover any payments for such costs.
3. MPS reserves the right to monitor Partner’s instructional program, conduct student documentation reviews, and review general program requirements. Copies of LPs and other parent/guardian communications shall be available at tutoring sites for monitoring purposes and additional copies shall be kept at Partner’s business.
4. MPS reserves the right to conduct unannounced on-site review inspection of the operations of the Partner, including, but not limited to, all pertinent records for the purpose of financial audits and state/federal regulations regarding signed LPs, signed student attendance rosters, criminal background checks, student data, accuracy and completeness of required staff data and educational services (instruction, materials, technology, and incentives/rewards and pre- and post-test results). If an audit identifies costs as inappropriate, MPS shall be entitled to recover any payments for such costs.
5. For **each year** Partner is providing services, Partner shall be required to submit a copy of its Financial Audit Report conducted on behalf of the applicant by an independent CPA for that year. The independent Audits must be submitted for the academic year July 1-June 30. Partner shall submit to MPS, within three months after the MPS fiscal year end, unless a written extension of time is granted by MPS, a complete set of audited financial statements, including Statement of Financial Position, Statement of Activities and Changes in Net

Assets, and Statement of Cash Flows, together with full footnote disclosure prepared by an independent certified public accountant. The audit statements shall be prepared in accordance with accounting standards generally accepted in the United States and government auditing standards issued by the Comptroller General of the United States. Notwithstanding any other provisions of this Agreement, the Board reserves the right to terminate this Agreement under Sec. VIII.A.7. should such auditor's opinions be anything other than unqualified. **Failure to turn in an audit shall result in Partner being barred from performing services in subsequent years.** Audits are due October 1.

6. If Partner is a newly formed entity, then a copy of the Engagement Letter from an independent CPA to perform the audit at year-end must be submitted.

XX. PROHIBITED PRACTICES

1. Partner during the period of this Agreement shall not hire, retain or utilize for compensation any MPS Principal, Assistant Principal, officer, or employee of MPS or the school or district ELO Coordinator or any person who has a conflict of interest.
2. Partner hereby attests it is familiar with and will adhere to MPS's Code of Ethics which states, in part, "An employee of Milwaukee Public Schools may not accept any gift or gratuity in excess of \$25.00 annually from any person, persons, group or any firm which does business with or is attempting to do business with MPS."
3. Partner may not make payments or in-kind contributions to schools or school personnel to obtain student lists, to increase student enrollment, to obtain other similar benefits for their tutoring program or for any illegal purpose.
4. Partner shall adhere to MPS' Livable Wage Policy, which requires all contractors to pay their adult employees a minimum of \$7.70 per hour.

XXI. CERTIFICATION REGARDING DEBARMENT OR SUSPENSION

By signing this document, Partner certifies that it and its principals: are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency; have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in this section; and have not within a three-year period preceding this contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.

XXII. NON-APPROPRIATION OF FUNDS

This Agreement is contingent upon the appropriation of sufficient funds by appropriate MPS officials. If funds are not appropriated, Partner agrees to take back any commodities furnished under the Agreement, terminate any services supplied to MPS under the Agreement, and relieve MPS of any further obligations under the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day, month and year first written above.

PARTNER: _____

MILWAUKEE BOARD OF SCHOOL DIRECTORS:

By _____

By _____

Signature

Gregory E. Thornton, Ed.D.
Superintendent of Schools

Please Print:

Name _____

Date: _____

Title _____

Business Address: _____

Telephone # _____

Tax ID or SS # _____

By _____

Michael Bonds, Ph.D.
President, Milwaukee Board of School Directors

Date: _____

For Office Use Only

Budget Code: **GEN – 0 – ___ – ___ – ___ – ___ – DW - ECTS**

NOTE: BUDGET CODES THAT ARE NOT LOCAL SCHOOL BUDGET CODES, MUST BE APPROVED BY APPROPRIATE DEPARTMENT OR PROGRAM ADMINISTRATOR.

This contract is not enforceable until signed by the Department of Finance.

Payment will not be made on any contract not on file in the Department of Finance.

A minimum of fifteen (15) business days is required for approval.

Approved as to appropriate use of a professional service contract form, and independent contractor status by Department of Finance.

By _____

Date _____

Reviewed by Division of Insurance and Risk Management.

By _____

Date _____

1034-2012-1371:184238

EXHIBITS

PAGE

Exhibit A
 Learning Plan2

Exhibit B
 Partner 2012-13 Scope of Service4

Exhibit C
 Safety Sign-in Sheet/Attendance Roster.....4

Exhibit D
 Emergency Response Plan4

Exhibit E
 Monthly Fire Drill4

Exhibit F
 MPS School Nutrition Services.....5

Exhibit G
 Accident Report.....6

Exhibit H
 Daily Attendance Roster7

Exhibit I
 Invoice.....8

Exhibit J
 Attendance Roster8

Exhibit K
 Statement of Non-Disclosure of Released Information.....10