

**THIS SERVICES AGREEMENT** (this "**Agreement**") is made by and between TNTP, Inc., a not-for-profit corporation organized under the laws of the State of Delaware, with its principal office at 500 7<sup>th</sup> Avenue, 8<sup>th</sup> Floor, New York, New York 10018 ("**TNTP**"), and San Elizario Independent School District, with its principal office at 1050 Chicken Ranch Rd., San Elizario, TX 79849 (the "**Client**" or "**San Elizario ISD**" or "**SEISD**"). This Agreement shall be effective as of the later of the dates beneath the parties' signatures below (the "**Effective Date**").

**STATEMENT OF PURPOSE:** The Client wants to engage TNTP to provide school support as detailed in this Agreement.

**Section 1. Term and Services.**

For the period commencing on the Effective Date until **August 1, 2026** (the "**Term**"), TNTP agrees to provide services for the Client as specified in Schedule A ("**TNTP's Services**"), attached to and incorporated by reference in this Agreement. TNTP's Client proposal will be considered accepted upon execution or upon commencement of the services at Client's direction following Client's instructions to commence services under the Proposal.

**Section 2. Client Responsibilities.**

Cooperate with TNTP, to facilitate the performance of TNTP's Services, and provide TNTP with access (which may be in-person or via virtual means such as teleconference and videoconference, as agreed upon by the parties) to Client personnel, classrooms, meeting spaces, and buildings ~~as-needed-for~~ as mutually agreed to between the Parties for TNTP's Services. The Services may require student and/or teacher surveys, focus groups, student work samples and video recordings of classroom activities, students or groups.

TNTP and Client may mutually agree to permit in-person, essential work-site visits under certain circumstances. In deciding to permit in-person, essential work-site visits, TNTP and Client will take into account CDC guidance, state and local regulations and guidance, the school and district's health and safety plan related to pandemics or infectious disease, and the internal policies of both Client and TNTP. If the parties agree to work-site visits, school staff will be instructed to follow all school district and TNTP health and safety procedures. ~~Client releases TNTP from any liability related to pandemic or infectious disease-related transmission from in-person work-site visits.~~ TNTP reserves the right to discontinue work-site visits at any time if TNTP determines that cessation of work-site visits is necessary to protect the health and safety of its personnel.

If required by the scope of services, provide to TNTP, ~~at no cost to TNTP,~~ and within thirty (30) days of a written request all requested student data ("**Student Data**"), teacher and staff related data ("**Staff Data**"), and demographic and school/district information ("**School Data**"). Student Data, Staff Data, and School Data is collectively referred to herein as "**Data**," as provided in Section 9 of this agreement. The Client's failure to provide TNTP with Data, or access to collect the Data, may cause a material delay in the delivery of services for which TNTP will not be held responsible.

**Section 3. Acknowledgements.**

- a. For the purposes of this agreement and pursuant to FERPA, CFR 99.31, a School Official is a contractor that: (1) Performs an institutional service or function for which the agency or institution would otherwise use employees; (2) Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and (3) Is subject to CFR 99.33(a) governing the use and re-disclosure of personally identifiable information from student records. The Client designates TNTP to act in a School Official role for the purposes outlined in the Scope of Work.
- b. TNTP's relationship to the Client is that of an independent contractor. The Client and TNTP intend that an independent contractor relationship be created by this Agreement, and not an employer/employee relationship, partnership, joint venture or other business group or concerted action. TNTP may upon written notice to you, subcontract any portion of

**Commented [Author1]:** Where is the Client Proposal? The only attachment here in Schedule A, which is the Services. Is there a separate proposal document? If so, that should be incorporated as an attachment here.

**Commented [Author2]:** This is extremely broad. SEISD - are you OK with giving them access? The word "access" is extremely broad so we recommend arriving at an Agreement with TNTP as to what this means and including those details here in writing to avoid confusion or dispute later. The phrase "as needed" for TNTP Services is also extremely broad. Because SEISD is a public entity, we need to understand the scope of what is being requested so that SEISD can understand what it is agreeing to provide to TNTP as part of this Agreement.

**Commented [Author3]:** TNTP - you are asking for FERPA-protected information here. What are the measures you are taking to protect FERPA protected information? What is the purpose of the video recordings?

**Commented [Author4]:** District - are you comfortable with TNTP to have access to FERPA-protected information? For example, even video recordings of students? Is that required to provide the services?

**Commented [Author5]:** TNTP, you are asking for significant information including as pertains to students without providing information on how you will protect and comply with FERPA. What specific data are you looking for? "Requested Student Data" is very broad, please list the specific pieces of information you are seeking.

TNTP's Services in its sole discretion. The Client, and not TNTP, is responsible for all employment-related obligations, liabilities, and decisions that may relate to the implementation of TNTP's services.

~~c. TNTP may share aggregate data collected and/or compiled under this agreement with All Points North Foundation (the "Funder"), as well as other districts and entities participating and/or associated with the program.~~

~~d. c.~~ TNTP will use its reasonable efforts to achieve the deadlines for services, if any, set forth in any timetable and/or dates for delivery contained in the Scope of Services.

~~e. TNTP may use video for any of TNTP's Services in its sole discretion and for its legitimate business purposes in perpetuity so long as it is made pursuant to all federal, state and local laws, rules and policies relating to confidentiality and protected information.~~

**Commented [Author6]:** What is the purpose of sharing District data with this third-party?

#### **Section 4. Representations and Warranties.** Each party agrees that it:

- a. Has the full right, power, legal capacity and authority to enter into this Agreement and to carry out its obligations hereunder.
- b. Maintains adequate and appropriate insurance, including comprehensive general liability, professional liability and workers' compensation insurance, to cover activities under this Agreement.
- c. Will comply in all material respects with all applicable federal, state, and local laws, ordinances, codes, and regulations in performing its services hereunder.
- d. Is not subject to and will not enter into any agreement or arrangements which preclude compliance with the provisions of this Agreement.

#### **Section 5. Payment and Invoicing.**

The total cost of TNTP's Services provided hereunder shall be entirely funded by All Points North Foundation (the "Funder"), according to and governed by a separate agreement between TNTP and the Funder. Accordingly, no compensation is due from the Client to TNTP. Should funding for the project be terminated, reduced, or otherwise delinquent at any time and for any reason, TNTP may elect to immediately terminate this Agreement, or, if TNTP does not elect to terminate this Agreement, the parties may renegotiate TNTP's Services and amend this Agreement accordingly. Under no circumstance does San Elizario ISD agree to pay or fund the Services.

#### **Section 6. Termination.**

If at any time either of the parties believes that the other party has materially breached its obligations hereunder, written notice shall be given setting forth the asserted breach and providing an opportunity to cure the same within thirty (30) days after such written notice. If the asserted breach shall not have been cured to the reasonable satisfaction of the party providing the written notice, but reasonable attempts to cure are claimed in writing by the party to whom the written notice of asserted breach was given, said party will have an additional opportunity to cure for a period of thirty (30) days following the expiration of the initial thirty (30) day cure period. If the asserted breach shall not have been cured to the satisfaction of the party providing written notice of asserted breach, that party may elect to terminate this Agreement upon written notice to the breaching party. If this Agreement is terminated, the rights and obligations of each party hereunder will terminate, provided, however, that such termination will not terminate the rights and obligations of the parties that expressly survive the termination of this Agreement, including, without limitation, the obligation of the Client to pay TNTP for expenses incurred and for all services provided pursuant to this Agreement prior to the effective date of such termination. Upon Termination, TNTP shall immediately and within no later than ten (10) days permanently destroy and delete any SEISD Data, including in any back-up or recovery files. Further, upon Termination TNTP shall direct any third parties it may have shared information with to delete and permanently destroy the copies of SEISD Data. Upon request by SEISD, TNTP will certify in writing that it has destroyed the Data.

San Elizario ISD may terminate this Agreement for convenience at any time without prior notice. Upon termination, TNTP shall immediately permanently destroy and delete any Data provided by San Elizario ISD to TNTP under this Agreement; Further, upon Termination TNTP shall direct any third parties it may have shared information with to delete and permanently destroy the copies of SEISD Data. Upon request by SEISD, TNTP will certify in writing that it has destroyed the Data.

#### **Section 7. Indemnification, Limitation of Liability and Subpoenas.**

The Parties agree to TNTP shall defend and indemnify the other Party, their subsidiaries and affiliates, and hold them harmless from any and all claims, losses, damages, penalties, costs, and expenses including without limitation, settlement costs and any legal, accounting and other expenses for investigation or defending any actions or threatened actions (collectively, "Losses") to the extent such Losses were caused by (a) the intentional misconduct of a Party, its personnel, or any of their employees or agents, or (b) any untruth, inaccuracy, fraud or material omission in any representation or warranty made by a Party. Additionally, the Client agrees to indemnify TNTP for any employment decisions made by a client related to the services provided by TNTP.

Except for a party's indemnification obligations under this Agreement: (i) in no event shall either party be liable for any indirect, consequential, special, incidental or punitive damages arising from or relating to performance under this Agreement, and (ii) in no event shall either party's liability for any and all claims arising out of or relating to its performance under this Agreement exceed the amounts paid by or payable by the Client hereunder, or as allowed by law. Nothing herein is intended to limit or restrict the indemnification rights or obligations outlined in Section 7.

In no event will TNTP be liable for any loss profits, loss of use, loss of contracts or for any indirect or consequential loss or damage. TNTP will not be liable to the Client for any liability arising in connection with TNTP's services, except to the extent such liability results from TNTP's fraud, or negligence, or intentional misconduct.

If TNTP is requested by Client or required by subpoena or similar legal process to produce TNTP's materials or personnel with respect to an engagement for Client, provided that TNTP is not a party to the proceeding, the Client will reimburse TNTP for our professional time and reasonable out of pocket expense, including the reasonable fees and out of pocket expenses of our outside counsel which we incur in responding to such a request.

#### **Section 8. Intellectual Property Rights.**

**Ownership by TNTP.** Title to and ownership of all work product, data, reports, and materials created by or on behalf of TNTP prior to the Effective Date of this Agreement or in the course of implementing and executing the Services, whether partial or complete, and any work product derived therefrom (collectively referred to as the "Work"), shall be and remain solely in TNTP except for the Client Data. The Client agrees that all Work created by will not be transferred, shared, licensed or sold by the Client to any other entity under any circumstances without the prior written consent of TNTP. TNTP shall be considered the author of the Work for purposes of copyright and only TNTP shall have the right to copyright the same. Additionally, TNTP retains all rights, title and interest in and to all processes, methods, systems, layouts, and information including TNTP's Video Library, Learning Portal, Insight, Academic Scorecard and online platforms (collectively the "TNTP Tools") used in creating the Work. Nothing in this Agreement shall be deemed to grant to the Client any ownership rights in the Work or the TNTP Tools, and except as expressly granted to the Client hereunder, the Client shall have no right or license with respect thereto.

**Ownership by the Client.** As between the Client and TNTP, the Client owns all Client Data provided to TNTP by or on behalf of Client in connection with this Agreement. The Client agrees that TNTP may use de-identified Client Data to perform its obligations hereunder and may use de-identified and aggregated Client Data for its legitimate business purposes, including, without limitation, for the purposes of publication, research, evaluation and presentation by TNTP.

~~Client Partners. The Client grants TNTP permission to share the Client Data with third-party researchers, evaluators, partners and funders designated by the Client upon receiving written permission (including permission through electronic mail) from the Client.~~

~~Promotional Materials. The Client and TNTP agree that either party may use descriptions of the Services in future promotional materials and client lists, and that TNTP may explicitly identify the Client as a client of TNTP and the Services.~~

License to the Client. TNTP grants the Client the following limited, revocable non-exclusive, non-transferable, non-sublicensable license to use the deliverables for the Client's own internal business operations, trainings and analysis only and agree not to disclose the deliverables to any third party except as otherwise permitted under this Agreement. ~~The Client agrees that transfer of ownership in the Deliverables will occur only after the Client's payment in full to TNTP for all services associated with the Deliverables.~~ TNTP does not convey to Client any ownership or license rights in any TNTP IP used in performance of the Services, or in the frameworks, processes, methodologies, analytical tools and industry data and insights that may be used or developed by TNTP in the performance of the Services. The Client agrees to keep take reasonable measures intended to keep the TNTP IP confidential and nothing in this agreement shall grant any ownership rights in the TNTP IP to the Client.

License to TNTP. The Client grants TNTP a worldwide, perpetual, irrevocable, royalty-free license, with the right to grant sublicenses, to use, modify, reproduce, display, transmit, distribute, publicly perform, and create derivative works of the Client Data in de-identified and/or aggregated form. ~~The Client agrees that TNTP may use any de-identified data and metrics regarding the Client's business which are provided to TNTP by the Client or which are otherwise collected by TNTP during the course of the engagement.~~

~~TNTP may identify the Client as the source from which the data originated if it complies with the other terms in this Agreement. The Client and TNTP agree that either party may use descriptions of TNTP's Services in future promotional materials, media and client lists, and that TNTP may explicitly identify the Client as a client of TNTP.~~

Survival. The terms of this Intellectual Property Rights Section shall survive the termination of this Agreement.

## **Section 9. Data**

The Parties agree that confidential or proprietary Data may be shared between the Parties and may only be used by the other Party for the purposes identified in Appendix A. The Client agrees to provide the requested data in a timely manner to ensure that project timelines are followed. The Parties agree to comply with all relevant federal, state, and local laws and regulations governing the privacy and security of personally identifiable information (including transmission of data), ~~to the extent applicable.~~

The Parties agree that any disclosure of Confidential Information shall be made available only to its employees, officers, directors, financial and legal advisors, agents or representatives (Representatives) who need to know in order to further the purpose of the services addressed in this agreement and as required by law. The Parties further agree to inform its Representatives of the confidential nature of the Confidential Information and direct them to treat the Confidential Information in accordance with the terms of this Agreement. The Parties acknowledge that irreparable injury and damage may result from disclosure of the Confidential Information to unauthorized third parties or from utilization of the Confidential Information for purposes other than those connected with TNTP's Services. The Parties acknowledge that irreparable injury and damage may result from disclosure of the Confidential Information to unauthorized third parties or from utilization of the Confidential Information for purposes other than those connected with TNTP's Services.

Client recognizes and agrees that for purposes of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g; 34 CFR Part 99 ("FERPA"), TNTP is considered a School Official with a legitimate educational interest, providing services that would otherwise be performed by the Client, and under the control and direction of the Client with respect to the education records. The Client shall define the criteria for determining who constitutes a "school official" and what constitutes a "legitimate educational interest" as permitted by FERPA, broadly enough to permit the provision of the Services hereunder, and reasonably inform students or their parents of the same in accordance with 34 C.F.R. § 99.31. TNTP shall comply with all applicable

provisions of the United States Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, 34 CFR Part 99 (FERPA) in receiving and handling personally identifiable information from education records as a "school official" under FERPA.

~~Notwithstanding the above, Client shall not provide or make available to TNTP any student's personally identifiable information from education records (for purposes of FERPA) unless: (i) Client has obtained, with respect to each student's PII provided to TNTP, appropriate written consent to disclose such PII to TNTP, and authorization for TNTP to use such PII in connection with performing Services; and (ii) Client has provided written notice to TNTP identifying particular Data as PII. All personally identifiable information will be destroyed within upon request by SEISD or within 610 days of the termination of this agreement.~~

~~Separate from the parties' obligations with respect to student data, the Client agrees not to send TNTP any data that can identify an individual ("Personal Data") unless otherwise mutually agree that it is a requirement in order to effectuate TNTP's services under the Agreement. In such circumstances, the parties shall comply with the obligations imposed on us by applicable data privacy legislation and these paragraphs. In providing TNTP with Personal Data the Client will be acting as the data controller and will confirm that Client has complied with relevant laws and obtained all necessary consents for lawful processing, including in connection with any transfers of Client's Personal Data.~~

#### **Section 10. Miscellaneous.**

- TNTP's services are limited to those specifically described in the Agreement and applicable Scope of Services and do not under any circumstances constitute accounting, audit, or tax related assistance or advice, investment advice, legal advice or services (including as to the manner, if any, in which you the Client may lawfully implement any advice provided by TNTP), expert witness services.
- In any event any provision of this Agreement is held by a court to be unenforceable as written, that provision will be reformed so as to give effect to the intentions of the parties, and the other provisions of the Agreement.
- Neither the Client nor TNTP may assign their rights under this Agreement without the prior written consent of the other.
- TNTP will not be liable to the Client or to any third party, nor be deemed to have breached this Agreement, for any failure or delay in performing any of its obligations under this Agreement when such failure or delay is caused by or results from an event beyond TNTP's reasonable control, including without limitation (1) acts of God, (2) natural disasters, (3) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, (4) governmental orders or restrictions, (5) international, national or regional emergency, (6) flood, fire, or explosion, (7) strikes, labor shortages, stoppages or slowdowns, (8) epidemics, pandemics, diseases, quarantines, or other extraordinary event which is determined to constitute a public health risk ("Force Majeure Event"). TNTP will use commercially reasonable efforts to give notice of the Force Majeure Event to the Client stating the period of time the occurrence is expected to continue, provided that (a) TNTP is able, given the nature and scope of the Force Majeure Event, to reasonably state such time period, and (b) any delay by TNTP to provide such notice or to state the time period when performance will be resumed will not negate the enforceability of this Section. Upon cessation of such Force Majeure Event, as reasonably determined by TNTP, TNTP will thereupon use commercially reasonable efforts to resume efforts to promptly perform or complete the performance of TNTP's Services hereunder as soon as reasonably practicable after the cessation or resolution of the Force Majeure Event. If TNTP's failure or delay to resume efforts to promptly perform or complete the performance remains uncured for a period of 60 days following notice given by it to Client under this Section, either party may thereafter suspend or terminate its performance under the applicable Scope of Work upon 30 days' written notice.
- All notices required by this Agreement will be in writing and either personally delivered or mailed, to such party at its address specified on the first page of this Agreement or to such other address as such party may designate by notice given in accordance herewith. If to TNTP, the notice will be to George Battle, General Counsel.

- This Agreement will be governed by ~~New York law~~ Texas law without reference to conflicts of laws principles. The Parties agree and consent to the jurisdiction of and venue in the ~~state, county of El Paso, Texas or federal courts in the city of Manhattan~~ and state of ~~New York~~ Texas in all disputes arising out of or relating to this Agreement.
- This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, understandings, representations and agreements, if any, with respect to the subject matter hereof. Neither this Agreement nor any provision hereof may be modified, amended, supplemented, waived, discharged, or terminated except in a writing signed by the parties. No failure or delay in exercising any right or remedy hereunder shall constitute a waiver of such, any other, right or remedy.
- The Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Agreement may also be executed by email, or other electronic means, and so executed shall have the full force and legal effect of an original.

**[Signature Page to Follow]**

#### **Signatures.**

The parties, by signing below, by their duly authorized representatives confirm their acceptance of the terms and agree to execute this Agreement, which shall be effective on the Effective Date.

#### **Client**

**DRAFT- DO NOT SIGN**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

#### **TNTP, Inc.**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Lin Johnson III

Chief Strategic Growth and Finance Officer

DRAFT

## Schedule A Statement of Work

**Commented [Author7]:** District, please review this Statement of Work.

This project will extend instructional leadership support structures established through GEAR UP, as San Elizario ISD instructional leaders work to sustain and expand the success they have experienced on their high school campus. The district and campus instructional leaders will collaborate with TNTP to plan and implement up to four strategic teacher training cycles that integrate TNTP-facilitated teacher training and targeted coaching from campus instructional leaders. Planning for these teacher development cycles will be grounded in:

1. Evaluation of current instructional methods used throughout middle school math classrooms using TNTP's Core Rubric, an evaluation tool for delivering more explicit and helpful feedback to teachers. The Core Rubric shifts the emphasis from teacher practice to student outcomes and focuses on four performance areas: culture of learning, essential content, academic ownership, and demonstration of learning.
2. A vision and goals for instructional improvement in middle school to allow more eighth grade students to earn high school credit through a collaborative data evaluation and planning process.
3. A common understanding of core research-based instructional practices proven to accelerate student learning.
4. Increasing consistency in students' access to grade-appropriate assignments and strong instruction.

### Proposed Project Scope:

The proposed project will be enacted in five phases. Each phase will span approximately five to six weeks, depending on the district academic calendar. In the first phase, TNTP will collaborate with campus and district instructional leaders to establish a vision of excellent instruction grounded in research-based, content-specific practices. TNTP will conduct a needs assessment to determine strengths and opportunities in current Tier 1 instructional practices. The needs assessment may include classroom observations, assignment analysis, and gathering feedback from campus leaders, teachers, and students through focus groups, surveys, and/or interviews. Using data from the needs assessment, TNTP and district instructional leaders will determine up to four core research-based practices that will be centered in upcoming teacher development cycles across the school year.

In each of the next four phases, TNTP will support and guide a teacher development cycle grounded in one of the instructional practices identified in phase one. A teacher development cycle will include a TNTP-provided professional development training for teachers. This training will be either facilitated by TNTP directly to teachers or through a train-the-trainer model, where TNTP prepares campus or district instructional leaders to facilitate the training to their teachers. Following the professional development, TNTP will support campus instructional leaders to provide targeted coaching and feedback to teachers to support implementation of the core practice of focus in the professional development. This support to instructional leaders will be provided through weekly or bi-weekly virtual planning and development meetings, depending on district and campus capacity. These meetings will focus on supporting instructional leadership to analyze what they are seeing in classrooms, develop aligned coaching and feedback skills, and manage instructional changes on their campuses. Toward the end of each teacher development cycle, TNTP will provide one day of on-site job-embedded coaching for key instructional leaders to support the instructional shifts for that cycle and determine readiness to progress to the next phase.

While the initial plan will include three teacher development cycles, adjustments may be made throughout the project in collaboration with district and campus leadership to respond to the learning needs of the teachers. For example, if teachers need additional development time during one cycle, the scope of the project may be adjusted to include three teacher development cycles instead of four to allow extra time for that cycle.

Data will be collected at the end of each project phase to monitor progress to project goals. Final data collection will take place in the spring of 2026 to capture the impact of the project and support the district and campus leadership in determining future growth opportunities for the campus.



By the end of this engagement, the participating school will have developed (1) a vision of excellent instruction for middle school mathematics and (2) a schoolwide implementation plan that reflects input from a cross-functional committee of key stakeholders.

Through this collaborative work with TNTP, partner campus will:

- Establish a vision of excellent math instruction for the middle school campus that encompasses daily use of high-quality instructional materials and a core set of research-based instructional practices.
- Strengthen instructional leadership protocols and procedures for monitoring and improving instructional quality of math on the campus.
- Increase math teachers' use of high-quality instructional materials and strong instructional practices in daily lessons.

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