



Letter of Agency - Fiscal Year 2014 Regarding E-Rate Consulting Services For Services Provided From July 1, 2013 through June 30, 2014

The following statements define the level of support provided to **ISD #709 Duluth Public Schools** (hereafter 'the District') by **Arrowhead Regional Computing Consortium** (hereafter 'ARCC') as it relates to filing for E-Rate discounts through the Federal Universal Service Administrative Company/Schools and Library Division (hereafter 'USAC/SLD').

This Letter of Agency covers the discount application process and forms processing services to be provided within the period from **July 1, 2013 through June 30, 2014**.

ARCC will provide the following E-Rate Support:

- **Information Sharing**
 - Will distribute E-Rate updates through a group e-mail list and quarterly newsletter as received and deemed appropriate.
 - Information will be collected from the USAC/SLD web site and the USAC/SLD weekly News Brief.
 - Additional information will be gathered from the State E-Rate Coordinator/E-Rate Central web site and E-Rate Central's weekly news posting.
- **Technology Plan**
 - Will work with the Minnesota Department of Education (MDE) on distributing technology plan guidelines.
 - Will work with MDE to distribute training on technology planning to the District.
 - Will assist the District in meeting MDE-defined deadlines for submission.
- **Form 470 (Checklist for services a district is interested in receiving)**
 - Will provide the District with the draft and final copies of the eligible services listing when it is posted by USAC/SLD.
 - Will notify the District of timelines for submission of Form 470.
 - Will set up appointment with the District to assist in completing Form 470. Assistance can take the form of telephone guidance, on-site at ARCC guidance and, if necessary, in-district guidance.
 - Will provide data entry service on the form.
 - Will track progress of form and notify the District if meeting the deadline for submission or certification of form is in jeopardy.
 - The District will authorize and sign the Form 470 and is ultimately responsible for meeting the filing deadline and for content of the form.
- **Form 471 (Actual request for discount)**
 - Will notify the District when "window" is open for submission of form 471 as announced by USAC/SLD.
 - Will set up appointment with the District to assist in completing form 471. Assistance can take the form of telephone guidance, on-site at ARCC office guidance and, if necessary, in-district guidance.
 - Will provide data entry service on the form.
 - Will work with the District on creation and electronic submission of the Item 21 attachments.
 - Will track progress of form and notify the District if meeting "window" for submission or certification of form is in jeopardy.
 - The District will authorize and sign the Form 471 and is ultimately responsible for meeting the filing deadline and for content of the form.
- **Program Integrity Assurance (PIA) (USAC/SLD review and analysis of request)**

- At request of the District, will assist in answering PIA questions.
- ARCC is not able to track and does not receive a copy of PIA requests. The ultimate responsibility for responding and meeting the 14 day response deadline rests with the District.
- **Funding Commitment Decision Letter (Official award of E-Rate funding)**
 - Will check USAC/SLD web site on weekly basis once funding waves have started and will notify the District when their funding has been awarded and what the next step is in the process.
- **Form 486 (Notifies USAC/SLD that services have begun)**
 - Will notify the District when funding is received that they have 120 days to complete this form.
 - Will track Form 486 progress and notify the District if meeting deadline for submission or certification of form is in jeopardy.
 - The District will authorize and sign the Form 486 and is ultimately responsible for meeting the filing deadline and for content of the form.
- **Form 472, Billed Entity Applicant Reimbursement (BEAR) (Requests discounts by check)**
 - Will work with the District to help meet BEAR deadlines.
 - ⊕ If the District requests assistance, will complete BEAR forms and send to District for signature and submission; billable on a \$100 per hour fee basis.
 - After end of E-Rate service year, will do periodic data downloads to ensure that the District has filed for appropriate discounts and that this step of the process was not overlooked.
 - The District will authorize and sign the Form 472 and is ultimately responsible for meeting the filing deadline and for content of the form.
- **Other**
 - Will work with the District to assist in developing bid scoring rubrics and review annually to verify that they meet USAC/SLD requirements.
 - Will work with the District to provide forms and other tools to assist in E-Rate program as they are developed.
 - Will work as an intermediary between the District and the USAC/SLD help desk on questions regarding program rules and procedures.
 - ⊕ Will assist the District if they are selected for an USAC/SLD site visit or audit; billable on a \$100 per hour fee basis.
 - ⊕ Will work with the District if an appeal is deemed necessary and possible; billable on a \$100 per hour fee basis.


The District certifies that they are a school under the statutory definition of elementary and secondary schools found in the No Child Left Behind Act of 2001, 10 U.S.C. §7801 (18) and (38), that they do not operate as a for profit business and do not have endowments exceeding \$50 million dollars.

I understand that the District will be billed an annual fee for basic E-Rate consulting services received from ARCC of \$250.00 plus \$.20 per pupil unit, based on the prior year's fall enrollment. SLD site audits, appeals and BEAR completion services provided by ARCC, as identified above with a '⊕', are considered above basic services for which an additional fee of \$100 per service hour will be billed.

I certify that I am authorized to sign this Letter of Agency. I further certify that to the best of my knowledge, information, and belief, all information provided to ARCC for e-rate submission is true.



ISD709 - Duluth Public Schools
215 N First Ave E
Duluth, MN 55802
07/01/2013



Arrowhead Regional Computing Consortium
5 West First Street #300
Duluth, MN 55802
07/01/2013

AGREEMENT

THIS AGREEMENT, made and entered into this 10 day of May, 2013, by and between Independent School District #709, a public corporation, hereinafter called District, and Fatih Benzer an independent contractor, hereinafter called Contractor.

THE PURPOSE OF THE AGREEMENT is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

The terms and conditions of this Agreement are as follows:

1. **Dates of Service.** This Agreement shall be deemed to be effective as of June 12, 2013 , and shall remain in effect until June 12, 2013 , unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.
2. **Performance.** Provide iPad workshop training for art and music teachers in Duluth, MN from 8:30am-4:30pm on June 12, 2013, for the iPad imProv workshop (in addition to planning and problem-solving pre-workshop).
3. **Background Check.** (Applies to contractors working independent with students) Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.
4. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$ 300.00 . Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.
5. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:
 - a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
 - b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.
6. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

7. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

8. **Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

9. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail care of _____, ISD 709, Duluth Public Schools, 215 North 1st Avenue East, Duluth, MN 55802. All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail:

Fatih Benzer
1321 East First Street Apt#306
Duluth MN 55805

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

Workers' Compensation Insurance: Contractor must provide Worker's Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

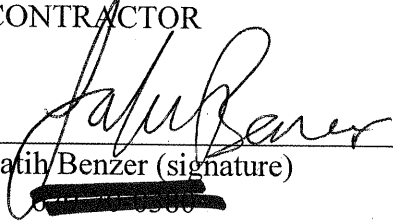
Commercial General Liability: Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

INDEPENDENT SCHOOL DISTRICT NO. 709

CONTRACTOR

Chair



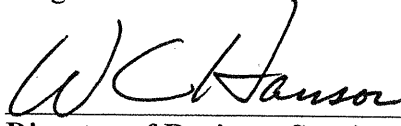
Fatih Benzer (signature)

Clerk

Assistant Professor

Program Director

Faculty ID: 4588321



Director of Business Service

4/27/13



201305102695045

DATA TRANSPORT SERVICE AGREEMENT

This Service Agreement ("Agreement") is executed and effective upon the latest date of the signatures set forth in the signature block below ("Effective Date") by and between Charter Fiberlink CC VIII, LLC, ("Charter Business" or "Charter") with local offices at 3993 Heritage Place, Rochester, MN 55901, and The Independent School District NO. 709 (hereafter called ISD 709), ("Customer") with offices located at 215 N 1ST AVE E, DULUTH, MN 55802-2058.

Both parties desire to enter into this Agreement in order to set forth the general terms under which Charter is to provide Customer with Charter's services ("Service" or "Services") to Customer site(s), the scope and description to be specified per site below and/or in a Service order(s) executed by both parties (each instance of site identification and order a "Service Order" or collectively the "Service Orders"), which shall be incorporated in this Agreement upon execution. **This Agreement and each Service Order will be effective only after both parties have signed each document.**

SERVICE ORDER

Under the Data Transport Service Agreement

CUSTOMER INFORMATION:

Account Name: ISD 709

Invoicing Address: _____

Invoicing Special Instructions: _____

1. SITE-SPECIFIC INFORMATION:

Order Type: New Service

Proposed Installation Date: 7/1/2013

Service Location (Address): 215 N 1ST AVE E, DULUTH, MN 55802-2058

Service Location Name (for purposes of identification): HOCHS BLDG – WAN _____

Service Location Special Instructions: _____

2. SITE-SPECIFIC INFORMATION:

Order Type: New Service

Proposed Installation Date: 7/1/2013

Service Location (Address): 421 N 6th Ave East, Duluth, MN 55805

Service Location Name (for purposes of identification): ISD 709 – INVOLTA HUB _____

Service Location Special Instructions: _____

Customer Contact Information. To facilitate communication the following information is provided as a convenience and may be updated at any time without affecting the enforceability of the terms and conditions herein:

	Billing Contact	Site Contact	Technical Contact
Name		Bart smith	
Phone		(218) 336-8700 ext... 1136	
Fax			
Cell			
Email			

MONTHLY SERVICE FEES:	
Data Services:	
<i>Charter Business Bundle: No Bundle *</i>	
<u>Base Service</u>	
1 Gbps (Down/Up) for HOCHS Bldg	\$995.00
1 Gbps (Down/Up) for Involta Hub	\$0.00

** If Customer has selected the Charter Business Special Offers, the Section 3(i) of the Standard Terms of Service (for Charter Business Bundle) shall apply.*

ONE-TIME CHARGES:	
One-Time Standard Installation Fee:	\$3,500.00
ONE-TIME CHARGES \$3,500.00	

2. TOTAL FEES.

Total Monthly Service Fees of \$995.00 are due upon receipt of the monthly invoice.

Total One-Time Charges of \$3,500.00 are included in the first monthly invoice.

3. SERVICE PERIOD. The initial Service Period of this Service Order shall begin on the date installation is completed and shall continue for a period of 24 months. Upon expiration of the initial term, this Service Order shall automatically renew for successive one-month terms and Charter may then apply Charter's then-current Monthly Service Fees unless either party terminates this Service Order by giving thirty (30) days prior written notice to the other party before the expiration of the current term.

4. TROUBLE REPORTS. Charter Business Network Operations Center: 866.603.3199

Charter operates and maintains the Charter Business Network Operations Center ("CB NOC"), which is staffed 24 hours a day, 7 days a week, 365 days a year. To report suspected problems with your fiber-based Service(s) call the CB NOC for support @ 866.603.3199. Charter shall provide a telephone response to such calls within one (1) hour, and, if necessary, initiate a physical response within four (4) hours of receiving Customer's call reporting the problem. Once the CB NOC representative has received the necessary information, a Customer Trouble Ticket will be assigned and investigation of Trouble Ticket will begin. After the status of the Trouble Ticket has been determined, the CB NOC will contact Customer's designated contact individual at the appropriate number to discuss the findings.

5. SERVICE CREDITS. Customer shall be entitled to one (1) hour of service credit per Site per affected fiber optic-based Service (i.e. circuit) for each hour of Service Interruption if the interruption: (a) exceeds four (4) consecutive hours, (b) is not caused by Customer, or its agents, employees, licensees, or contractors, or a Force Majeure Event, (c) is not caused by Customer-provided

equipment or facilities beyond the demarcation point, (d) is not caused by scheduled maintenance, and (e) a Trouble Ticket has been opened within 24 hours of the commencement of the interruption. Service Credits shall not apply to any period of time for which Charter is not granted access, if necessary, to the applicable Customer Site. A "Service Interruption" is the continuous period of time during which a respective Service is not provided substantially as ordered to one or more Customer Sites. A Service Interruption commences when Charter becomes aware of such Service Interruption of a Service and ends when the Service is operational and the Trouble Ticket is closed.

A Service Credit is calculated as follows:

- * Service Credit = Per Hour Rate X (# of consecutive hours during Service interruption)
- * Per Hour Rate = Per Day Rate/twenty-four (24)
- * Per Day Rate = Monthly Service Charge/thirty (30) days
(30 = average days in one [1] month)

Any Service interruption that exceeds a consecutive period of twelve (12) hours shall be considered an outage for one (1) day.

Example:

If Customer is paying a \$10,000 Monthly Service Fee and a Service interruption of one (1) day (or 24 hours) occurs, the Service Credit shall be equal to \$333.33 and shall be applied on the billing cycle following the date Charter makes its credit determination:

Per Day Rate = \$10,000/30 days = \$333.33
Per Hour Rate = \$333.33/24 hours = \$13.89

Service Credit = 1 day X \$333.33 = \$333.33
OR
24 hours X \$13.89 = \$333.33

Service credits will be based on the Customer's Monthly Service Fee for those Sites and specific Services affected by the Service Interruption. Non-recurring, equipment and usage-based charges are excluded. The sum of all Service Credits shall not exceed the Customer's total Monthly Service Fees for the month in which the Service interruption occurred. The Customer must contact Charter Business at 866.603.3199 (or successor applicable toll-free number) to request a Service Credit for a specific Service Interruption. Charter Business will exercise commercially reasonable efforts to respond to such Service Credit requests within fifteen (15) business days of receipt thereof. The approved Service Credit will be applied on the billing cycle following the date Charter makes its credit determination. Service Credits shall be Customer's sole and exclusive remedy for Charter's failure to provide Services as warranted.

6. **NO UNTRUE STATEMENTS.** Customer further represents and warrants to Charter that neither this Service Order, nor any other information, including without limitation, any schedules or drawings furnished to Charter contains any untrue or incorrect statement of material fact or omits or fails to state a material fact.

7. **E-RATE CONTINGENCY.** This Service Order under the Agreement will, collectively, serve as a binding contract between Charter and Customer and, in the event Customer seeks federal E-rate subsidy for Services, Customer may submit this Service Order and the Agreement for submission to either (a) the Schools and Libraries Division of the Universal Service Administration Company, the entity appointed by the Federal Communications Commission ("FCC") to administer the Universal Service Program with respect to E-Rate funding under 47 C.F.R. § 54.504 or (b) some other entity appointed in the future by the FCC or otherwise designated under applicable law to perform such function. The requirement of performance of respective obligations hereunder by the parties, however, shall be contingent upon notification of (i) acceptance/approval of this Service Order and Agreement by the Schools and Libraries Division and (ii) an award of E-rate funding therefore by the Schools and Libraries Division as specifically provided below.

In the event of rejection of an application for award or an award which is less than the Customer requested E-rate funding, the Customer shall have the option of either (A) terminating this Service Order, in which case the Customer must negotiate in good faith with Charter the terms of a new Service Order under which services might be procured/provided or (B) paying Charter directly for any shortfall in amounts necessary to pay for any services already rendered and all Services going forward including the Installation Fee, Monthly Service Fees, any other amounts required hereunder. Customer must provide Charter with written notice of its election ((A) or (B)) hereunder within twenty (20) days of receiving notification from the Schools and Libraries Division regarding the award or rejection of an application for award of E-rate funding. In the event Customer's election notice is not received by Charter within twenty (20) days of the date of the award or rejection notification by the Schools and Libraries Division, option (B) above shall be deemed to have been chosen by the Customer and the Customer shall remain responsible for fulfillment of the obligations set forth in this Service Order under the Agreement thereafter. If Customer voluntarily withdraws or is involuntarily removed from the E-rate program regarding Services under this Service Order, Customer's obligations under this Service Order and the Agreement shall remain in full force and effect and the options related to E-rate above become null and void.

- 8. **CONFIDENTIALITY.** Customer hereby agrees to keep confidential and not to disclose directly or indirectly to any third party, the terms of this Service Order or any other related Service Orders, except as may be required by law. If any unauthorized disclosure is made by Customer and/or its agent or representative, Charter shall be entitled to, among other damages arising from such unauthorized disclosure, injunctive relief and a penalty payment in the amount of the total One-Time Charges associated with this Service Order, and Charter shall have the option of terminating this Service Order, other related Service Orders and/or the Service Agreement.
- 9. **FACSIMILE.** A copy sent via fax machine or scanned and e-mailed of a duly executed Agreement and Service Order signed by both authorized parties shall be considered evidence of a valid order, and Charter may rely on such copy of the Agreement and Service Order as if it were the original.

NOW THEREFORE, Charter and Customer agree to the terms and conditions included within this Service Agreement, including the Commercial Terms of Service which follow, and hereby execute this Service Agreement by their duly authorized representatives.

Charter Fiberlink, CC VIII, LLC

ISD 709

By: Charter Communications, Inc., its Manager

Signature: Bill Hanson

Signature: _____

Printed Name: BILL HANSON

Printed Name: _____

Title: CFO

Title: _____

Date: 4/4/13

Date: _____

Charter Business Account Executive:

Name: Rob Petersen

Telephone: (715) 563-2627

COMMERCIAL TERMS OF SERVICE

1. **AGREEMENT TERM.** This Agreement shall terminate upon the lawful termination of the final existing Service Order entered into under this Agreement.
2. **SERVICE.** Charter shall provide the Services during the Service Period to Customer at the site(s) identified in the Service Order(s). "Service Period" is the time period starting on the date the Services are functional in all material respects and available for use (the "Turn-up Date"), and continuing for the number of months specified in the Service Order(s).
3. **STANDARD PAYMENT TERMS.** Customer shall pay fees and charges for the Services in the amount specified on the Service Order in accordance with this Agreement. A one-time charge ("OTC") is a nonrecurring fee for construction, Service installation charge(s), repair, replacement, or any other nonrecurring costs or charges. "Equipment" means the components (e.g., any gateway or edge electronic device, node, router, switch, communications lines/cables, etc.) that make up the Network. "Network" means all of the physical elements necessary to provide the Services.
 - (a) **Charges.** Customer shall pay all associated charges associated with the Service(s), as set forth or referenced in the applicable Service Order(s) or invoiced by Charter. These charges may include, but are not limited to a monthly service fee ("MSF"), nonrecurring fees for construction, installation, repair, replacement or other one-time charges ("OTC"), usage charges such as, pay-per-view charges, and applicable federal, state, and local taxes, fees, surcharges and recoupments (however designated), MSFs shall be subject to increases attributable to programming, license, copyright, retransmission and/or other similar costs imposed upon Charter, Charter shall provide not less than thirty (30) days prior notice to Customer of any MSF change.
 - (b) **Taxes, Surcharges, and Fees.** Customer shall pay any sales, use, property, excise or other taxes, franchise fees, and governmental charges (excluding income taxes) arising under this Agreement, in addition to any surcharges that may be imposed as may be permitted under and consistent with applicable law.. A copy of Customer's tax exemption document, if applicable, must be provided to Charter to certify tax-exempt status. Tax-exempt status shall not relieve Customer of its obligation to pay any applicable franchise fees. Charter reserves the right from time to time to change the surcharges for Services under this Agreement to reflect the charges or payment obligations imposed on Charter which Charter is permitted or required under applicable law to pass through to Customer (e.g., universal service fund ("USF") charges, franchise fees etc.).
 - (c) **Change Requests.** Any charges associated with Service and Equipment installations, changes, or additions requested by Customer subsequent to executing a Service Order for the applicable site are the sole financial responsibility of Customer. Charter shall notify Customer, in writing, of any additional OTCs and/or adjustments to MSFs associated with or applicable to such Customer change requests prior to making any such additions or modifications. Customer's failure to accept such additional charges within three days of receiving such notice shall be deemed a rejection by Customer, and Charter shall not be liable to perform any work giving rise to such charges. For accepted charges, Customer shall be assessed such additional OTCs and/or adjustments of the MSFs either (i) in advance of implementation of the change request or (ii) beginning on Customer's next and/or subsequent invoice(s).
 - (d) **Site Visits and Repairs.** If Customer's misuse, abuse or modification of the Services, Equipment or Network results in a visit to the Customer site for inspection, correction or repair, Charter may charge Customer a site visit fee as well as charges for any resulting Equipment or Network repair or replacement, which may be necessary.
 - (e) **Invoicing Errors.** Customer must provide written notice to Charter of any invoice errors or disputed charges within 30 days of the invoice date on which the errors and/or disputed charges appear for Customer to receive any credit that may be due. Customer must have and present a reasonable basis for disputing any amount charged.
 - (f) **Late Fees.** Undisputed amounts not paid within 30 days of the invoice date shall be past due and subject to a late fee of not more than 1.5% per month or the maximum amount permitted by law.
 - (g) **Non-payment.** If Services are suspended due to late payment, Charter may require that Customer pay all past due charges, a reconnect fee, and one or more MSFs in advance before reconnecting Services.
 - (h) **Collection Fees.** Charter may charge a reasonable service fee for all returned checks and bank card, credit card or other charge card charge-backs. Customer shall be responsible for all expenses, including reasonable attorney fees and collection costs, incurred by Charter in collecting any unpaid amounts due under this Agreement.
 - (i) **Bundled Pricing.** If Customer has selected a Charter Business Bundle ("CBB") specifically, the following conditions shall apply:
 - i. In consideration for Customer's purchase of all Services in the CBB and only with respect to that period of time during which Customer continues to purchase such CBB, Charter shall apply a discount to the Services ordered under the applicable Service Order(s). Such discount has been applied to the Services included in Charter's bundled pricing offer and is reflected in the MSF for such Services.

- ii. Upon discontinuation or termination by Customer of any component of a Service of the applicable CBB, the pricing for the remaining Services shall revert to Charter's a la carte pricing for such Services in effect at the time. Termination liability applicable to the Services under this Agreement shall otherwise remain unchanged.

4. SERVICE LOCATION ACCESS AND INSTALLATION.

- (a) Access. Charter will require reasonable access to each service location listed on a Service Order ("Service Location") as necessary for Charter to review, install, inspect, maintain or repair any Equipment or Materials necessary to provide the Services. If Customer owns or controls the Service Location(s), Customer grants Charter permission to enter the Service Location(s) for the exercise of such right. If a Service Location is not owned and/or controlled by Customer, Customer will obtain, with Charter's assistance, appropriate right of access. If such right of access for Charter is not obtained by either party, then Charter's obligations with respect to such Service Location shall be considered null and void.
- (b) Installation Review; Subsequent Interference. Charter may perform an installation review of each Service Location prior to installation of the Services. Upon request, Customer shall provide Charter with accurate site and/or physical network diagrams or maps of a Service Location, including electrical and other utility service maps, prior to the installation review. If Charter determines that safe installation and/or activation of one or more of the Services will have negative consequences to Charter's personnel or Network or cause technical difficulties to Charter or its customers, Charter may terminate the Service Order effective upon written notice to Customer or may require Customer to correct the situation before proceeding with installation or activation of the Services.

If during a Service Period, or any renewal thereof, (i) proper operation of Equipment or provision of a Service is no longer unhindered or possible as a result of interference or obstruction due to any cause other than Charter or (ii) such interference/obstruction or its cause may endanger, hinder, harm or injure Charter's personnel or Network and/or cause technical difficulties to Charter or its customers, Charter may terminate the affected Service Order(s) without liability upon written notice to Customer.
- (c) Site Preparation. Customer shall be responsible for necessary preparations at its location(s) for delivery and installation of Equipment and the installation and ongoing provision of Services, including the relocation of Customer's equipment, furniture and furnishings as necessary to access the Equipment or Services. Upon request, Customer shall provide any available electrical, utility service, and/or general physical network diagrams or maps prior to installation or maintenance work to be undertaken by Charter.
- (d) Installation. Charter will schedule one or more installation visits with Customer. Customer's authorized representative must be present during installation. If

during the course of installation Charter determines additional work is necessary to enable Charter to deliver the Services to the Service Location, Charter will notify Customer of any additional OTCs. If Customer does not agree to pay such OTCs by executing a revised Service Order within five business days of receiving the same, Customer and Charter shall each have the right to terminate the applicable Service Order. Customer shall connect Customer's computer or network to applicable Charter-provided Equipment to enable access to the Services. Charter shall be responsible for reasonable restoration efforts necessary to address any displacement resulting from excavation.

- (e) Ongoing Visits. Charter will need periodic access for inspection, operation and maintenance of the Network. Except in emergency situations, Charter will obtain approval from Customer (not to be unreasonably withheld or delayed) before entering Customer Premises. At Charter's request, Customer, or a representative designated by Customer, will accompany Charter's employees or agents into any unoccupied unit for any purpose relating to the Equipment.

5. EQUIPMENT AND MATERIALS.

- (a) Responsibilities and Safeguards. Except as otherwise provided in this Agreement or any Service Order(s), neither party shall be responsible for the maintenance or repair of cable, electronics, structures, Equipment or materials owned by the other party; provided, however, that subject to the indemnification limitations set forth in this Agreement, each party shall be responsible to the other for any physical damage or harm such party causes to the other party's personal or real property through the damage –causing party's negligence or willful misconduct. Customer shall:
 - i. Safeguard Equipment against others;
 - ii. Not add other equipment nor move, modify, disturb, alter, remove, nor otherwise tamper with any portion of the Equipment;
 - iii. Not hire nor permit anyone other than personnel authorized by Charter acting in their official capacity to perform any work on Equipment; and
 - iv. Not move nor relocate Equipment to another location or use it at an address other than the Service location without the prior written consent of Charter.

Any unauthorized connection or other tampering with the Services or Equipment shall be cause for immediate suspension of Services, termination of this Agreement and/or legal action, and Charter shall be entitled to recover damages, including the value of any Services and/or Equipment obtained in violation of this Agreement in addition to reasonable collection costs including reasonable attorney fees. Should any antenna, or signal amplification system for use in connection with communication equipment hereafter be installed on the Premises which interferes with the Services, Charter shall not be obligated to distribute a signal to the Premises

better than the highest quality which can be furnished without additional cost to Charter as a result of such interference, until such time as the interference is eliminated.

- (b) Customer Security Responsibilities. Customer shall be responsible for the implementation of reasonable security measures and procedures with respect to use of and access to the Service and/or Equipment. Charter may suspend the Services upon learning of a breach of security and will attempt to contact Customer in advance, if practicable.
- (c) Ownership. Notwithstanding any other provision contained in this Agreement to the contrary, all Equipment and materials installed or provided by Charter are and shall always remain the property of Charter, shall not become a fixture to the Premises, and must be returned to Charter at any time Services are disconnected in the condition in which they were received subject to ordinary wear and tear. Customer will not sell, lease, assign nor encumber any Equipment. Customer shall not obtain or acquire title to, interest or right (including intellectual property rights) in the Service or Equipment other than to the limited extent of use rights expressly granted under this Agreement.
- (d) Equipment Return, Retrieval, Repair and Replacement. Immediately upon termination of this Agreement and/or Service Order(s) ("Termination"), at the discretion of Charter, Customer shall return, or allow Charter to retrieve, the Equipment supplied by Charter to Customer. Failure of Customer to return, or allow Charter to retrieve, Equipment within 10 days after Services are terminated will result in a charge to Customer's account equal to the retail cost of replacement of the unreturned Equipment. Customer shall pay for the repair or replacement of any damaged Equipment, except such repairs or replacements as may be necessary due to normal and ordinary wear and tear or material/workmanship defects, together with any costs incurred by Charter in obtaining or attempting to regain possession of such Equipment, including reasonable attorney fees.
6. ADMINISTRATIVE WEB SITE. Charter may, at its sole option, make one or more administrative web sites available to Customer in connection with Customer's use of the Services (each an "Administrative Web Site"). Charter may furnish Customer with one or more user identifications and/or passwords for use on the Administrative Web Site. Customer shall be responsible for the confidentiality and use of such user identifications and/or passwords and shall immediately notify Charter if there has been an unauthorized release, use or other compromise of any user identification or password. In addition, Customer agrees that its authorized users shall keep confidential and not distribute any information or other materials made available by the Administrative Web Site. Customer shall be solely responsible for all use of the Administrative Web Site, and Charter shall only be entitled to rely on all Customer uses of and submission to the Administrative Web Site as authorized by Customer.

Charter shall not be liable for any loss, cost, expense of other liability arising out of any Customer use of the Administrative Web Site, Charter may change or discontinue the Administrative Web Site, or Customer's right to use the Administrative Web Site, at any time. Additional terms and policies may apply to Customer's use of the Administrative Web Site. These terms and policies will be posted on the site.

7. VIDEO, MUSIC AND CONTENT SERVICE. This Video, Music and Content Service Section shall only apply if Video, Music and Content Services are included in a Service Order under this Agreement; however, continued use or reception of the Video Services is subject to the provisions of this Agreement.
- (a) Music Rights Fees. Customer is responsible for and must secure any music rights and/or pay applicable fees required by the American Society of Composers, Authors & Publishers (ASCAP), Broadcast Music, Inc. (BMI) and SESAC, Inc. (SESAC) or their respective successors, and any other entity, person or governmental authority from which a license is necessary or appropriate relating to Customer's transmission, retransmission, communication, distribution, performance or other use of the Services.
- (b) Premium and Pay-Per-View. Customer may not: (i) exhibit any premium Services such as HBO or Showtime in any public or common area; (ii) order or request Pay-Per-View (PPV) programming for receipt, exhibition or taping in a commercial establishment; or (iii) exhibit nor assist in the exhibition of PPV programming in a commercial establishment unless explicitly authorized to do so by agreement with an authorized program provider and subject to Charter's prior written consent.
- (c) HD Formatted Programming. If Customer has selected High Definition ("HD") formatted programming, Customer is responsible for provision, installation and maintenance of the receiving equipment and/or facilities necessary for its reception and display. Any failure of Customer to fulfill the foregoing obligation shall not relieve Customer of its obligation to pay the applicable MSFs or OTCs for the HD formatted programming.
- (d) Provision of Service. Without notice, Charter may preempt, rearrange, delete, add, discontinue, modify or otherwise change any or all of the advertised programming comprising, packaging of, line-up applicable to, and/or distribution of its Video Services.
- (e) Restrictions. Customer shall not and shall not authorize or permit any other person to (i) copy, record, dub, duplicate, alter, make or manufacture any recordings or other reproductions of the Services (or any part thereof); or (ii) transmit the Services by any television or radio broadcast or by any other means or use the Services outside the Service Location. Customer acknowledges that such duplication, reproduction or transmission may subject Customer to criminal penalties and/or civil liability and damages under applicable copyright and/or trademark laws. With respect to the music programming comprising a portion of the Services, Customer shall not, and shall not

authorize or permit any other person to, do any of the following unless Customer has obtained a then-current music license permitting such activity: (i) charge a cover charge or admission fee to any Service Location(s) at the time the Services are being performed or are to be performed; (ii) permit dancing, skating or other similar forms of entertainment or physical activity in conjunction with the performance of the Services; or (iii) insert any commercial announcements into the Services or interrupt any performance of the Services for the making of any commercial announcements.

8. INTERNET ACCESS SERVICE. This Internet Access Service Section shall only apply if Internet Access Services are included in a Service Order under this Agreement; however, continued use of the Internet Service shall be subject to the provisions of this Agreement.

- (a) Customer shall (i) maintain certain minimum equipment and software to receive the Service (see www.charterbusiness.com (or the applicable successor URL) for the current specifications); (ii) ensure that any person who has access to the Internet Services through Customer's computer(s), Service Location, facilities or account shall comply with the terms of this Agreement, (iii) be responsible for all charges incurred and all conduct, whether authorized or unauthorized, caused by use of Customer's computers, service locations, facilities or account using the Internet Services.
- (b) Internet Service Speeds. Charter shall use commercially reasonable efforts to achieve the Internet speed selected by Customer on the Service Order, however, actual Internet speeds may vary. Many factors affect speed including, without limitation, the number of workstations using a single connection.
- (c) Electronic Addresses. All e-mail addresses, e-mail account names, and IP addresses ("Electronic Addresses") provided by Charter are the property of Charter. [Customer may not alter, modify, sell, lease, assign, encumber or otherwise tamper with the Electronic Addresses]
- (d) Changes of Address. Charter may change addressing schemes, including e-mail and IP addresses.
- (e) No Liability for Risks of Internet Use. The Service, Charter's network and the Internet are not secure, and others may access or monitor traffic.
- (f) No Liability for Purchases. Customer shall be solely liable and responsible for all fees or charges for online services, products or information. Charter shall have no responsibility to resolve disputes with other vendors.
- (g) Blocking and Filtering. Customer assumes all responsibility for providing and configuring any "firewall" or security measures for use with the Service. Except to the extent set forth in the Supplemental Charter Business Security Service Section, Charter shall not be responsible in any manner for the effectiveness of these blocking and filtering technologies. Charter does not warrant that others

will be unable to gain access to Customer's computer(s) and/or data even if Customer utilizes blocking and filtering technologies, nor does Charter warrant that the data or files will be free from computer viruses or other harmful components. Charter has no responsibility and assumes no liability for such acts or occurrences.

(h) Acceptable Use Policy. Customer shall comply with the terms of Charter's Acceptable Use Policy ("AUP") found at www.charterbusiness.com (or the applicable successor URL) and that policy is incorporated by reference into this Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Charter with or without notice to Customer. Charter may suspend Service immediately for any violation of the Charter AUP.

9. SUPPLEMENTAL SERVICES. The following Subsections shall only apply in the event the referenced supplemental service has been selected by and are being delivered to Customer. The supplemental services (also "Services") may be made up of software and hardware components. Charter shall ensure the supplemental services are operational and updated from time-to-time based on manufacturer-sent updates. Except to the limited extent described in the foregoing sentence, Charter makes no warranties of any kind (express or implied) regarding the supplemental services and hereby disclaims any and all warranties pertaining thereto (including implied warranties of title, noninfringement, merchantability, and fitness for a particular purpose). Charter does not have title to and is not the manufacturer of any software or hardware components of the supplemental services nor is Charter the supplier of any components of such software or hardware. Customer shall return or destroy all software components provided to Customer upon the termination of the applicable Service Order, and in the case of the destruction thereof, shall, upon request, provide Charter with certification that such components have been destroyed. **IN NO EVENT SHALL CHARTER BE LIABLE FOR ANY DAMAGES ARISING FROM THE PERFORMANCE OR NONPERFORMANCE OF ANY SUPPLEMENTAL SERVICES.**

- (a) Hosting. This Hosting Service subsection shall only apply if one of Charter's Hosting Services ("Hosting") is included as part of the Service in a Service Order under this Agreement. Charter will provide to Customer Hosting Service in accordance with the specifications associated with the plan Customer has selected on the Service Order.
 - i. Hosting Software. The Hosting Service will permit access to a variety of resources available from selected third parties, including developer tools, communication forums and product information (collectively, "Hosting Software"). The Hosting Software, including any updates, enhancements, new features, and/or the addition of any new Web properties, may be subject to and Customer shall comply with applicable product use rights/end user

license agreements between such third parties and Customer. Without abrogating or limiting anything set forth in the Sections: Internet Access Service, this Section, No Third-Party Support, Customer Use or Performance, Charter (not the manufacturer) shall provide technical support for Hosting Service, but version changes of any such software compatibility and/or suitability with any other Customer provided software shall be Customer's responsibility. Customer hereby consents to the disclosure to the provider of Third Party Software, of Customer's name and any other necessary information for the limited purpose of licensing rights. Customer shall not use Hosting Service for or in connection with any high risk use or activity such as aircraft or other modes of human mass transportation, nuclear, or chemical facilities, or Class III medical devices under the Federal Food, Drug, and Cosmetic Act. **COPYING OR REPRODUCTION OF THE HOSTING SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED, UNLESS APPROVED IN WRITING BY CHARTER.**

- ii. Domain Names. Customer shall be solely responsible for registering for or renewing a desired domain name. Charter does not guarantee that Customer will be able to register or renew a desired domain name.
- iii. Specification Limitations. Individual websites may not at any time exceed the Hosting specifications identified on the applicable Service Order. If Customer's Hosting account exceeds the applicable specifications or is adversely impacting Charter's network or server(s), Charter may (i) contact Customer to resolve the issues; or (ii) if Customer has exceeded the then-applicable specifications in any given month, upgrade account on the next available billing cycle to the next service level tier or suspend or terminate the Hosting Service.

Notwithstanding anything to the contrary, if Customer's use of the Hosting Service is causing an adverse impact on Charter's network or servers, Charter may suspend or terminate the Hosting Service without notice.

- iv. Limitation of Charter-provided Services. Certain services are not provided by Charter as part of the Hosting Service (e.g., Charter does not provide nor offer webpage creation, development, design or content services).
- v. Hosting Fees. The applicable Service Order sets forth the MSFs for the Hosting Service. Customer is responsible for payment whether or not the hosting platform is used and whether or not it functions properly, unless such failure is caused by Charter.
- vi. Content Liability and Use Restrictions. Charter exercises no control over the content of the information passing through Customer's site(s) and it is

Customer's sole responsibility to ensure that Customer and Customer's users use of the Hosting Service complies at all times with all applicable laws and regulations and the AUP. Charter shall have the right to disclose any and all available information collected from Customer to law enforcement authorities upon written request by such authorities. Information that may be disclosed includes IP addresses, account history, and files stored on servers used to provide the Hosting Service. If Customer engages in any of the following prohibited activities, Charter shall have the right to suspend or terminate the Hosting Services and/or this Agreement:

1. The hosting of unlicensed software.
 2. Use of software or files that contain computer viruses or files that may harm user's computers;
 3. Any attempt or actual unauthorized access by Customer or through Customer's equipment to any Charter website or the website of any Charter customer;
 4. The collection or any attempt to collect personally identifiable information of any person or entity without his, her or its express written consent. Customer shall maintain records of any such written consent throughout the term of this Agreement and for three years thereafter;
 5. Any action or inaction which is harmful or potentially harmful to the Charter server structure;
 6. Running a banner exchange, free adult thumbnail gallery post and/or free adult image galleries on your website;] or
 7. Inclusion of sites with material, links, or resources for hacking, phreaking, viruses, or any type of site that promotes or participates in willful harm to Internet sites, users or providers.
- vii. Impositions on Customer's End Users. Customer is responsible for charging and collecting from its end users any and all applicable taxes. If Customer fails to impose and/or collect any tax from its end users then, as between Charter and Customer, Customer shall be liable for such uncollected tax and any interest and penalty assessed thereon with respect to the uncollected tax. Customer shall indemnify and hold the Charter Indemnified Parties (defined below) harmless for any costs incurred or taxes or fees paid due to actions taken by the applicable taxing authority to collect any such tax from Charter due to Customer's failure to comply with this Section.
- (b) CB Security Service – Desktop and Managed. Charter's managed security service, CB Managed Security, and desktop security service, CB Desktop Security (collectively, "CB Security Service") are each made up of software and hardware components. Charter shall ensure that the selected CB Security Service(s) is/are operational and updated from time-to-time based on manufacturer-

sent updates. Charter is not the manufacturer of any software or hardware components of either Charter Business Security Service nor is Charter the supplier of any components of such software or hardware.

- (c) **CB Back-Up Service.** For Charter's data storage service ("CB Back-up"), Customer shall be assessed applicable OTCs and MSFs which shall be based upon Customer's selection of version retention quantity and storage tier (e.g., five gigabits). The version retention quantity selected specifies the maximum number of separate versions of a document that will be retained (running in sequential order based on the last version created). For example, if Customer has selected "seven" as the version retention quantity, Customer will be able to access the last seven versions of a particular document. In addition to OTCs and MSFs, monthly storage overage fees shall apply each month Customer exceeds the respective subscribed storage level. Additional OTCs and MSFs also apply to Customer-requested media and/or professional services.

Charter is not the manufacturer or supplier of any CB Back-Up software components. Customer shall be responsible for updating CB Back-Up from time-to-time based on updates provided by the software manufacturer, and any failure of Customer to perform such updates shall relieve Charter from any responsibility to ensure that CB Back-Up remains operational.

If the functionality of CB Back-Up cannot be maintained by Charter, Charter shall have the right to discontinue providing the Service immediately and Charter shall credit Customer's account for any pre-paid MSFs attributable to the Service, except where such lack of functionality is caused by Customer or any end user gaining access to the Service through Customer's facilities, equipment, or point of access. Customer shall not be relieved of its responsibility to continue to pay for CB Back-Up in the event CB Back-Up does not function properly as a result of Customer's failure to install and configure the software, activate the service or install manufacturer-provided updates. **CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT (1) IT IS CUSTOMER'S SOLE RESPONSIBILITY TO CREATE AND RETAIN THE CB BACK-UP PASSWORD THAT IS NECESSARY FOR ACCESS TO ANY DATA STORED VIA THE CB BACK-UP SERVICE AND (2) CHARTER HAS NO ACCESS TO AND DOES NOT KNOW NOR KEEP ANY RECORD OF THE PASSWORD CREATED BY CUSTOMER. FAILURE BY CUSTOMER TO RETAIN CUSTOMER'S CB BACK-UP PASSWORD SHALL RESULT IN COMPLETE LOSS OF ACCESSABILITY TO DATA STORED VIA CB BACK-UP.**

- 10. DATA NETWORKING (aka "DATA TRANSPORT").** Charter will provide Data Networking Services for Customer locations connected over coaxial and/or fiber-optic cable. Connectivity is established between two or more customer end-points under a unique customer topology. Charter will install the coaxial or fiber-optic cable into each Customer site as listed in the Service Order(s). Charter will also supply an edge device at each site that

will be capable of receiving the Service as specified in the Service Order(s).

- i. Charter will terminate fiber-optic cable on a patch panel or provide a coaxial outlet at an agreed upon minimum point of penetration (MPOP) up to 50 feet within each facility (unless otherwise specified in the Service Order). If the hand-off point of the Data Networking Service at Customer's premise exceeds this distance, Customer may be responsible for any additional costs for internal wiring.
- ii. Customer will make available to Charter a building ground connection at each location that meets current electrical codes for the placement of a fiber-optic patch panel and/or coaxial outlet. Unless otherwise specified in the applicable Service Order, it is recommended that Customer provide a separate 20 Amp 110V AC circuit for the edge electronics, which is powered by a UPS system. Customer-supplied routing will be necessary for communication between each Service Location.
- iii. If Customer has selected "Monitoring" for a Service, Charter shall monitor the Services 24 hours a day, seven days a week. Customer shall contact the Charter Business Network Operations Center at 1-866-603-3199 or subsequent number to report Data Networking Service problems. Additional fees may apply for Monitoring over coaxial cable.

- 11. NO THIRD-PARTY HARDWARE OR SOFTWARE SUPPORT.** Customer is responsible for the installation, repair and use of Customer-supplied third-party hardware and/or software. For purposes of this Agreement the Hosting Software shall be considered third party software. Charter does not support third-party hardware or software supplied by Customer. Any questions concerning third-party hardware or software should be directed to the provider of that product. Charter assumes no liability or responsibility for the installation, maintenance, compatibility or performance of third party software, any Customer-supplied hardware or software with the Services. If such third-party equipment or software impairs the Services, Customer shall remain liable for payments as agreed (if any) without recourse for credit or prorated refund for the period of impairment. Charter has no responsibility to resolve the difficulties caused by such third-party equipment or software. If, at Customer's request, Charter should attempt to resolve difficulties caused by such third-party equipment or software, such efforts shall be performed at Charter's discretion and at then-current commercial rates and terms.

- 12. CUSTOMER USE.** Customer shall not re-sell or re-distribute access to the Service(s) or system capacity, or any part thereof, in any manner without the express prior written consent of Charter. Customer shall not use or permit third parties to use the Service(s), including the Equipment and software provided by Charter, for any illegal purpose, or to achieve unauthorized access to any computer systems, software, data, or other copyright or patent protected material. Customer shall not interfere with other customers' use of the Equipment or Services or

disrupt the Charter Network, backbone, nodes or other Services. Violation of any part of this Section is grounds for immediate Termination of this Agreement and/or all Service Orders in addition to any other rights or remedies Charter may have.

13. **PERFORMANCE.** Charter will use commercially reasonable efforts in keeping with normal industry standards to ensure that the Service is available to Customer 24 hours per day, seven days per week. It is possible, however, that there will be interruptions of Service. The Service may be unavailable from time-to-time either for scheduled or unscheduled maintenance, technical difficulties, or for other reasons beyond Charter's reasonable control. Temporary service interruptions/outages for such reasons, as well as service interruptions/outages caused by Customer, its agents and employees, or by a Force Majeure Event, shall not constitute a failure by Charter to perform its obligations under this Agreement, and Customer will not hold Charter at fault for loss of Customer revenue or lost employee productivity due to Service outages.

14. **DEFAULT; SUSPENSION OF SERVICE; TERMINATION.** No express or implied waiver by Charter of any event of default shall in any way be a waiver of any further subsequent event of default. Nothing herein, including Termination, shall relieve Customer of its obligation to pay Charter all amounts due.

(a) **Default by Customer.** Customer shall be in default under this Agreement if Customer does one or more of the following things (each individually to be considered a separate event of default) and Customer fails to correct each such noncompliance within 30 days of receipt of written notice:

- i. Customer is more than 30 days past due with respect to any payment required hereunder;
- ii. Customer otherwise has failed to comply with the terms of this Agreement or any other Service Order(s) incorporated herein.

(b) **Termination for Convenience.** Notwithstanding any other term or provision in this Agreement, Customer shall have the right to terminate a Service Order, or this Agreement in whole or part, at any time during the Service Period upon thirty (30) days prior written notice to Charter, and subject to payment of all outstanding amounts due, any applicable Termination Charges, and the return of any Charter Equipment.

(c) **Charter's Right to Terminate and Termination Charge.** If Customer is in default, Charter shall have the right, at its option, without prior notice, and in addition to any other rights of Charter expressly set forth in this Agreement and any other remedies it may have under applicable law to:

- i. Immediately suspend Services to Customer until such time as the underlying noncompliance has been corrected without affecting Customer's on-going obligation to pay Charter any amounts due under this

Agreement (e.g., the MSFs) as if such suspension of Services had not taken place;

- ii. Terminate the Services, this Agreement or the applicable Service Order(s).

If Termination is due to noncompliance by Customer or is elected/done by Customer for convenience, Customer must pay Charter a Termination charge (a "Termination Charge"), which the parties recognize as liquidated damages. This Termination Charge shall be equal to 50% of the unpaid balance of the MSFs that would have been due throughout the remainder of the applicable Service Period plus 100% of (1) the outstanding balance of any and all OTCs plus (2) any and all previously waived OTCs.

(d) **Default by Charter.** Charter shall be in default under this Agreement if Charter fails to comply with the terms of this Agreement and/or any or all of the applicable Service Order(s), and Charter fails to remedy each such noncompliance or occurrence within 30 days of receipt of written notice from Customer describing in reasonable detail the nature, scope and extent of the default or noncompliance.

(e) **Customer's Right to Terminate and Termination Charge.**

- i. In the event Customer wishes to terminate a Service without cause, Customer shall be liable for the same Termination Charges as described above.

ii. Customer shall have the right, at its option and in addition to any other remedies it may have, to terminate any applicable Service Order(s), if the underlying event of default and/or noncompliance by Charter is limited to Services provided under the applicable Service Order(s) or this Agreement, if such noncompliance is not so limited, provided that Charter's diligent efforts to correct such breach are not commenced and pursued within 30 days after Charter's receipt of a written notice from Customer describing in reasonable detail the nature, scope and extent of the event of default/noncompliance.

iii. If Termination is due to noncompliance by Charter, Charter shall reimburse Customer for any pre-paid, unused MSFs attributable to such terminated Service Order(s). In addition, if Termination is due to noncompliance by Charter within one year of the applicable Turn-Up Date, Charter shall pay a Termination Charge, which the parties recognize as liquidated damages, equal to a portion of any OTC that has already been paid by Customer to Charter relative to Service at the sites covered by the terminated Service Order. This Termination Charge shall be equal to the product of a) the number of months (including partial months) remaining in the initial 12 months of the initial Service Period at the time of Termination and b) a ratio in which the numerator is the total of OTCs paid to date and the denominator is 12.

15. LIMITATION OF LIABILITY. PLEASE READ THIS SECTION CAREFULLY, IT CONTAINS DISCLAIMERS OF WARRANTIES AND LIMITATIONS OF LIABILITY.

- (a) Limited Warranty. At all times during the Service Period, Charter warrants that it will use commercially reasonable efforts in keeping with industry standards to cause the Services to be available to Customer. Charter does not warrant that Services will be error free.

THE FOREGOING LIMITED WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL EXPRESS AND IMPLIED WARRANTIES WHATSOEVER.

EXCEPT AS OTHERWISE STATED IN THIS AGREEMENT, CHARTER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY SERVICE AND SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

WITHOUT LIMITING ANY EXPRESS PROVISIONS OF THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL RELIANCE OR PUNITIVE DAMAGES (INCLUDING LOST BUSINESS, REVENUE, PROFITS, OR GOODWILL) ARISING IN CONNECTION WITH THIS AGREEMENT OR THE PROVISION OF SERVICES, INCLUDING ANY SERVICE IMPLEMENTATION DELAYS AND/OR FAILURES, UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY OR NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. CHARTER'S MAXIMUM LIABILITY TO CUSTOMER WITH REGARD TO ANY SERVICE SHALL NOT EXCEED THE AMOUNT, EXCLUDING OTCS, PAID OR PAYABLE BY CUSTOMER TO CHARTER FOR THE APPLICABLE SERVICE IN THE THREE MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM.

THE FOREGOING LIMITATIONS APPLIES TO ALL CAUSES OF ACTIONS AND CLAIMS, INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION AND OTHER TORTS.

Any warranty claim by Customer must be made within 30 days after the applicable Services have been performed. Charter's sole obligation and Customer's sole remedy, with respect to any breach of the limited warranty set forth herein, shall be a prorated refund of the fees paid by Customer based on the period of time when the Services are out of compliance with this limited warranty provision.

- (b) Content. Any content that Customer may access or transmit through any Service is provided by independent content providers, over which Charter does not exercise and disclaims any control. Charter neither previews content nor exercises editorial control; does not endorse

any opinions or information accessed through any Service; and assumes no responsibility for content. Charter specifically disclaims any responsibility for the accuracy or quality of the information obtained using the Service. Such content or programs may include programs or content of an infringing, abusive, profane or sexually offensive nature. Customer and its authorized users accessing other parties' content through Customer's facilities do so at Customer's own risk, and Charter assumes no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such content.

- (c) Damage, Loss or Destruction of Software Files and/or Data. Customer uses the Services and Equipment supplied by Charter at its sole risk. Charter does not manufacture the Equipment, and the Services and Equipment are provided on an "as is basis" without warranties of any kind. Charter assumes no responsibility whatsoever for any damage to or loss or destruction of any of Customer's hardware, software, files, data or peripherals which may result from Customer's use of any Service. Charter does not warrant that data or files sent by or to Customer will be transmitted in uncorrupted form or within a reasonable period of time.
- (d) Unauthorized Access. If Customer chooses to run or offer access to applications from its equipment that permits others to gain access through the Network, Customer must take appropriate security measures. Failing to do so may cause immediate termination of Customer's Service by Charter without liability for Charter. Charter is not responsible for and assumes no liability for any damages resulting from the use of such applications, and Customer shall hold harmless and indemnify the Charter Indemnified Parties from and against any claims, losses, or damages arising from such use. Charter is not responsible and assumes no liability for losses, claims, damages, expenses, liability, or costs resulting from others accessing Customer's computers, its internal network and/or the Network through Customer's equipment.
- (e) Force Majeure Event. Neither Party shall be liable to the other for any delay, inconvenience, loss, liability or damage resulting from any failure or interruption of Services, directly or indirectly caused by circumstances beyond such party's control, including but not limited to denial of use of poles or other facilities of a utility company, labor disputes, acts of war or terrorism, criminal, illegal or unlawful acts, natural causes, mechanical or power failures, or any order, law or ordinance in any way restricting the operation of the Services. Changes in economic, business or competitive condition shall not be considered a Force Majeure Event.

16. INDEMNIFICATION. In addition to its specific indemnification responsibilities set forth elsewhere in this Agreement and as permissible under applicable law, Customer at its own expense, shall indemnify, defend and hold harmless Charter and its directors, employees, representatives, officers and agents, (the "Indemnified Parties") against any and all claims, liabilities, lawsuits,

damages, losses, judgments, costs, fees and expenses incurred by Charter Indemnified Parties, including reasonable attorney fees and court costs incurred by Charter Indemnified Parties under this Agreement, to the full extent that such arise from Customer's misrepresentation with regard to or noncompliance with the terms of this Agreement and any or all Service Orders, Customer's failure to comply with applicable law, and/or Customer's negligence or willful misconduct. Charter Indemnified Parties shall have the right but not the obligation to participate in the defense of the claim at Customer's cost and Customer shall cooperate with Charter Indemnified Parties in such case.

17. **TITLE.** Title to the Equipment shall remain with Charter during the applicable Service Period. Customer shall keep that portion of the Equipment located on Customer premises free and clear of all liens, encumbrances and security interests. Upon termination of Service or expiration of a Service Order's Service Period for a specific site, Charter shall have the right to remove all Equipment components and/or leave any of such components in place, assigning title and interest in such components to Customer, it being understood that no further notice or action is required to accomplish the assignment contemplated hereunder. Charter shall have the right to remove the Equipment and all components within 60 days after such termination.
18. **COMPLIANCE WITH LAWS.** Customer shall not use or permit third parties to use the Services in any manner that violates applicable law or causes Charter to violate applicable law. Both parties shall comply with all applicable laws and regulations when carrying out their respective duties hereunder.
19. **PRIVACY.** Charter treats private communications on or through its Network or using any Service as confidential and does not access, use or disclose the contents of private communications, except in limited circumstances and as permitted by law. Charter also maintains a Privacy Policy with respect to the Services in order to protect the privacy of its customers. The Privacy Policy may be found on Charter's website at www.CharterBusiness.com. The Privacy Policy may be updated or modified from time-to-time by Charter, with or without notice to Customer.
20. **GENERAL CUSTOMER REPRESENTATIONS AND OBLIGATIONS.** Customer represents to Charter (a) that Customer has the authority to execute, deliver and carry out the terms of this Agreement and associated Service Orders and (b) that any person who accesses any Services through Customer's equipment or through the Network facilities in Customer's Premises will be an authorized user, will use the Service, Network and/or Network facilities in an appropriate and legal manner, and will be subject to the terms of this Agreement. Customer is responsible for ensuring its users of the Service comply with the terms of this Agreement. Customer shall be responsible for all access to and use of the Service by means of Customer's equipment, whether or not Customer has knowledge of or authorizes such access or use.

Customer shall be solely liable and responsible for all charges incurred and all conduct through either authorized or unauthorized use of the Service, until informs Charter of any breach of security.

21. **NOTICES.** Any notices to be given under this Agreement shall be validly given or served only if in writing and sent by nationally recognized overnight delivery service or certified mail, return receipt requested, to the following addresses:

If to Charter:
Charter Communications
ATTN: Charter Business

with copies to:
Charter Communications
ATTN: CB Corporate – Contracts Management
Dept: Corporate Operations
12405 Powerscourt Drive
St. Louis, MO 63131

Notices to Customer shall be sent to the Customer billing address.

Each party may change its respective address(es) for legal notice by providing notice to the other party.

22. MISCELLANEOUS.

- (a) **Entire Agreement; Signatures.** This Agreement and any related, executed Service Order(s) constitute the entire Agreement with respect to the Services, Network and Equipment. This Agreement supersedes all prior understandings, promises and undertakings, if any, made orally or in writing by or on behalf of the parties with respect to the subject matter of this Agreement. This Agreement may be executed in one or more counterparts, each of which is an original, but together constituting one and the same instrument. Execution of a facsimile copy will have the same force and effect as execution of an original, and a facsimile signature will be deemed an original and valid signature.
- (b) **No Amendments, Supplements or Changes.** Except for pricing terms as set forth in this Agreement, this Agreement and the associated executed Service Order(s) may not be amended, supplemented or changed without both parties' prior written consent.
- (c) **No Assignment or Transfer.** The parties may not assign or transfer (directly or indirectly by any means, by operation of law or otherwise) this Agreement and the associated Service Order(s), or their rights or obligations hereunder to any other entity without first obtaining written consent from the other party, which consent shall not be unreasonably withheld; provided, however, that without Customer's consent, Charter may assign this Agreement and the associated executed Service Order(s) to affiliates controlling, controlled by or under common control with Charter, or to its successor-in-interest if Charter sells some or all of the underlying communications system.

- (d) Severability. If any term, covenant, condition or portion of this Agreement or any related, executed Service Order(s) shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or any related, executed Service Order(s) shall not be affected and each remaining term, covenant or condition shall be valid and enforceable to the fullest extent permitted by law.
- (e) Governing Law. The law of the state in which the Services are provided (excluding its conflicts of law provisions) shall govern the construction, interpretation, and performance of this Agreement, except to the extent superseded by federal law. IN ANY AND ALL CONTROVERSIES OR CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, ITS NEGOTIATION, ENFORCEABILITY OR VALIDITY, OR THE PERFORMANCE OR BREACH THEREOF OR THE RELATIONSHIPS ESTABLISHED HEREUNDER, CUSTOMER AND CHARTER EACH HEREBY WAIVES ITS RIGHT, IF ANY, TO TRIAL BY JURY.
- (f) Both parties had the opportunity to review and participate in the negotiation of the terms of this Agreement and the Service Order(s) and, accordingly, no court construing this Agreement and any Service Order(s) shall construe it more stringently against one party than against the other.
- (g) No Third Party Beneficiaries. The terms of this Agreement and the parties' respective performance of obligations as described are not intended to benefit any person or entity not a party to this Agreement, and the consideration provided by each party hereunder only runs to the respective parties hereto, and that no person or entity not a party to this Agreement shall have any rights hereunder nor the right to require performance of obligations by either of the parties hereto

Waiver. Except as otherwise provided herein, the failure of Charter to enforce any provision of this Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision.

AGREEMENT

THIS AGREEMENT, made and entered into this 17 day of May, 2013, by and between Independent School District #709, a public corporation, hereinafter called District, and John Gregor an independent contractor, hereinafter called Contractor.

THE PURPOSE OF THE AGREEMENT is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

The terms and conditions of this Agreement are as follows:

1. **Dates of Service.** This Agreement shall be deemed to be effective as of June 13, 2013, and shall remain in effect until June 13, 2013, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.
2. **Performance.** Provide training for Visual and Media Arts teachers in Duluth, MN from 8:30am-4:30pm on June 13, 2013, for the Photography workshop (as yet to be named) (in addition to planning and problem-solving pre-workshop).
3. **Background Check .** (Applies to contractors working independent with students) Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.
4. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$ 250.00. Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.
5. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:
 - a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
 - b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.
6. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

7. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

8. **Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

9. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail care of _____, ISD 709, Duluth Public Schools, 215 North 1st Avenue East, Duluth, MN 55802. All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail _____ (need contractors mailing address including Zip Code).

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

Workers' Compensation Insurance: Contractor must provide Worker's Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

Commercial General Liability: Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

INDEPENDENT SCHOOL DISTRICT NO. 709

CONTRACTOR

Chair

John Gregor (signature)
SS#

Clerk

Title

Program Director

Taxpayer Identification Number



Director of Business Service

AGREEMENT

THIS AGREEMENT, made and entered into this 28th day of May, 2013, by and between Independent School District #709, a public corporation, hereinafter called District, and Fond du Lac Band of Lake Superior Chippewa, an independent contractor, hereinafter called Contractor.

THE PURPOSE OF THE AGREEMENT is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

The terms and conditions of this Agreement are as follows:

1. **Dates of Service.** This Agreement shall be deemed to be effective as of May 28, 2013, and shall remain in effect until June 16, 2013, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.
2. **Performance.** Contractor shall provide the following services for the Language Camp to take place on the Fond du Lac Reservation, June 13-16, 2013:
 - A. Identify and schedule all native language consultants, support staff and volunteers as required.
 - B. Provide supervision to all staff, volunteers and participants within scheduled age appropriate learning activities.
 - C. Coordinate all meals and activities necessary for participants.
 - D. Provide brief summary of event within 30 days of completion.

Nothing in this contract in anyway abridges, modifies, or compromises the sovereignty of the Fond du Lac Band of Lake Superior Chippewa.

3. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$1,000.00. Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

5. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District payable to Fond du Lac Reservation on execution of the contract.
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

6. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

7. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

8. **Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

9. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail care of Office of Education Equity, ISD 709, Duluth Public Schools, 215 North 1st Avenue East, Duluth, MN 55802. All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail Fond du Lac of Lake Superior Chippewa, Attention: Mr. Chuck Walt, Executive Director, 1720 Big Lake Rd., Cloquet, MN 55720. Copies: Patricia Northrup, 218.879.4593.

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

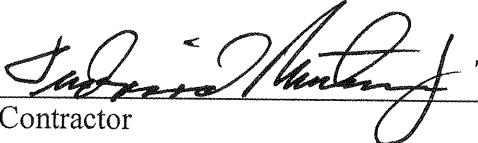
17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

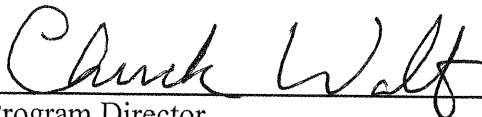

Workers' Compensation Insurance: Contractor must provide Worker's Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

Commercial General Liability: Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.


AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.


Contractor _____ SSN/ Tax Identification Number

5-29-13
Date


Program Director _____  6-6-13

5-29-13
Date


Director of Business Service / Superintendent of Schools _____

6/10/13
Date

AGREEMENT

THIS AGREEMENT, made and entered into this 28th day of May, 2013, by and between Independent School District #709, a public corporation, hereinafter called District, and NAACP-Duluth Branch, an independent contractor, hereinafter called Contractor.

THE PURPOSE OF THE AGREEMENT is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

The terms and conditions of this Agreement are as follows: (insert as appropriate)

- Dates of Service.** This Agreement shall be deemed to be effective as of May 28, 2013, and shall remain in effect until June 30, 2013, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.
- Performance.** Juneteenth, also known as Freedom Day or Emancipation Day, commemorates the announcement of the abolition of slavery in the U.S. State of Texas. Juneteenth is an official annual holiday in 29 of the United States. This event will create opportunities for interracial communication building, learning, and celebration of diversity. Multicultural and community involvement will be provided to disenfranchised youth thru this African American Celebration. District staff, students and community members will be invited to attend.
- Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$6,000.00 (six thousand dollars). Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.
- Requests for Reimbursement.** The terms of payment under this Agreement are as follows:
Contractor will be paid in the following manner. Payment by the District will be made in the amount of two thousand dollars (\$2,000.00) upon approval of the contract for start-up costs. As additional receipts/invoices are provided to the Office of Education Equity, a reimbursement request will be submitted to accounts payable for processing. Additional payments to the contractor shall not exceed \$4,000.00 (four thousand dollars) and will be processed as receipts/invoices and/or timesheets are provided. Invoices are required for payment.
- Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor.

This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

6. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

7. **Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

8. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

9. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail care of Office of Education Equity, ISD 709, Duluth Public Schools, 215 North 1st Avenue East, Duluth, MN 55802. All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail: N.A.A.C.P., Attn: Claudie Washington, President Duluth Branch, P.O. Box 494, Duluth, MN 55801.

10. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

11. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

12. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

13. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

14. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

15. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

16. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

Workers' Compensation Insurance: Contractor must provide Worker's Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

Commercial General Liability: Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

Celaudie Worsley 15-1084199 6/7/13
Contractor SSN/ Tax Identification Number Date

Tom Hopton 6/6/13
Program Director Date

W. Hanson 6/10/13
Director of Business Service / Superintendent of Schools Date

W. Hanson
6/6/13



affiliated with the Young Audiences Arts for Learning network

School Contract 2012-13 School Year

This agreement, by and between COMPAS, Inc. (hereafter "COMPAS") and Lowell Elementary School (hereafter "Program Site") is hereby entered into and shall become effective as of the date of last signature.

It is Mutually Agreed as Follows:

1. COMPAS shall provide Program Site with an artist residency of 4 days in length. Site shall select the artist(s) from the Roster active in the COMPAS Residency program, as identified on the COMPAS website.

Leo Lara is/are the artist(s) tentatively identified for this residency.

COMPAS shall provide the necessary artist direction, instruction, supervision, resource materials and logistical arrangements.

2. In consideration of the services performed by COMPAS, Program Site shall pay COMPAS a total of \$ \$1140.00, due and payable to COMPAS prior to the start of the residency.

3. Program Site shall abide by the stipulations of the program model, including, but not limited to:

- a. adherence to the guidelines of the COMPAS residency format, as described in detail on the COMPAS website at www.compas.org;
- b. reviewal with COMPAS artist of any special rules or situations relevant to site, including limitations on interaction with minors or vulnerable adults (COMPAS policy available on request);
- c. preparation of a residency schedule for the artist, which shall adhere to the guidelines of one of the four COMPAS school-based residency models (Traditional, Saturation, Extended, and Collaboration). Under these guidelines, residencies typically include no more than four classroom sessions per day, at least two of which shall be on-going classes with Core Groups meeting each day of the residency; one hour of teacher-artist contact in the form of in-service workshops or individual or small group meetings with teachers; and one community event;
- d. appropriate administrative or technical support (i.e., typing and photocopying for writing residencies; art supplies and adequate work space for visual arts residencies; adequate rehearsal space for music and dance residencies; etc.);
- e. the assignment of a teacher or other legally responsible and duly authorized adult to each classroom in which the artist works during the residency;
- f. arranging and paying for lodging for artists who travel 80+ miles one way from their home.
- g. promoting COMPAS activity in school newsletter, website, blog and/or Facebook site; disseminating Family Participation Guide in take-home materials, e-newsletters, etc.; working with COMPAS staff and artist to implement photo/video permission for promotional uses.
- h. completion of the COMPAS residency evaluation form by contact person and/or core group teachers for each residency.

Residency Dates: 6/24-27/13

WCHanson
6/4/13

COMPAS Memorandum of Agreement, 2012-13 Fiscal Year

4. COMPAS shall be responsible for the payment of all artist fees and transportation costs, except where expressly negotiated otherwise.

5. Any works produced as a part of a COMPAS residency are subject to reprint by COMPAS at its discretion in any future COMPAS publication.

6. If, after the artist has been selected and residency dates established, it becomes necessary to change some or all of the dates because of

- a) artist illness or other unforeseen circumstance beyond the control of COMPAS, COMPAS shall, at its option, either reschedule the missed day(s) with the same artist, or another acceptable to Program Site, if the original artist is not available; or bill Program Site on a prorated basis for the amount of the residency actually completed.
- b) inclement weather or other unforeseen circumstances beyond the control of Program Site, COMPAS shall reschedule the missed day(s) with the same artist, or another, acceptable to Program Site, if the original artist is not available. **Program Site shall be billed for residency days interrupted by such circumstances.**

Program Site shall be responsible for informing the artist (at home or at local lodging) and COMPAS of any change, conflict or cancellation of Program Site that shall affect the residency as scheduled. In event of artist illness, the artist shall inform Program Site and COMPAS.

7. Residency dates shall not be changed or cancelled due to circumstances or conflicts that could have been foreseen and/or prevented by Program Site. **Program Site shall be billed for residency days interrupted by such circumstances.**

8. Program Site agrees not to contract separately with identified COMPAS Roster Artist(s) for a period of at least two years following the completion of this project.

9. This Agreement shall become effective as of the date of signature of both parties, and shall be completed upon receipt by COMPAS of payment and required evaluation materials from Program Site.

10. COMPAS, as a non-profit organization, is reliant on granted or contributed funds from outside sources. The ability of COMPAS to carry out its responsibilities identified in this contract is dependent on receipt of outside funding. If these funds are not forthcoming, are rescinded or terminated, COMPAS reserves the right to terminate this agreement on ten days notice without penalty to COMPAS.

Agreed To By:

Cheryl Bock
Cheryl Bock, Chair, Board of Directors
COMPAS

01/22/2012
Date

WCHanson
Authorized Program Site Official Signature

6/6/13
Date

Bill HANSON, CFO
Name and Title (Typed or Printed, Please)

Program Site Name

Telephone Number

Program Site Address

City, State, Zip

AGREEMENT

THIS AGREEMENT, made and entered into this 10 day of May, 2013, by and between Independent School District #709, a public corporation, hereinafter called District, and Chris Russell, an independent contractor, hereinafter called Contractor.

THE PURPOSE OF THE AGREEMENT is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

The terms and conditions of this Agreement are as follows:

1. **Dates of Service.** This Agreement shall be deemed to be effective as of June 11, 2013, and shall remain in effect until June 11, 2013, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.
2. **Performance.** Provide iPad workshop training for music teachers in Duluth, MN from 8:30am-4:00pm on June 11, 2013. Prepare survey, compile data from survey to design workshop training for various apps to use with the iPad and provide information and handouts to attendees.
3. **Background Check.** (Applies to contractors working independent with students)

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.
4. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$ 445.00. Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.
5. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:
 - a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
 - b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.
6. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

7. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

8. **Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

9. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail care of _____ Bill Hanson, Director of Business Services, _____ ISD 709, Duluth Public Schools, 215 North 1st Avenue East, Duluth, MN 55802. All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail _____ (1824 Canton Road Prescott WI 54021) _____.

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to “data on individuals”; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

Workers’ Compensation Insurance: Contractor must provide Worker’s Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers’ Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer’s Liability.


Commercial General Liability: Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

INDEPENDENT SCHOOL DISTRICT NO. 709

CONTRACTOR

Chair



Title (signature)

Clerk

Independent Contractor.

Title

Program Director

~~399-66-8172~~

Taxpayer Identification Number



Director of Business Service

AGREEMENT

THIS AGREEMENT, made and entered into this 13-14th day of May, 2013, by and between Independent School District #709, a public corporation, hereinafter called District, and Kathleen M. Horst, an independent contractor, hereinafter called Contractor.

THE PURPOSE OF THE AGREEMENT is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

The terms and conditions of this Agreement are as follows: (insert as appropriate)

1. **Dates of Service.** This Agreement shall be deemed to be effective as of May 13, 2013, and shall remain in effect until May 14, 2013, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.**
SEEDS of Early Literacy Professional Development Training for ISD 709 early childhood staff on May 14, 2013. Objectives covered include SEEDS overview, curriculum guides and intentional teaching.

3. **Background Check.** (Applies to contractors working independent with students)

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.

4. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$785.68. Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

5. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

6. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor.

This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

7. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

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In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail care of Community Education/ECFE, ISD 709, Duluth Public Schools, 215 North 1st Avenue East, Duluth, MN 55802. All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail care of Kathleen M. Horst, 13255 N. Ozark Trail, Stillwater, MN 55082.

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

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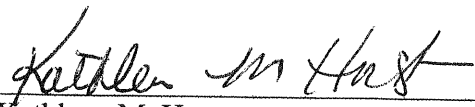
Commercial General Liability: Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

INDEPENDENT SCHOOL DISTRICT NO. 709

CONTRACTOR

Chair



Kathleen M. Horst

Clerk

Program Director

SS# ~~484-58-2050~~
Taxpayer Identification Number



Director of Business Service



AGREEMENT

This agreement is made as of May _____, 2013 between Elert & Associates, Inc. (E&A) and Duluth Public Schools (the Client), whose business address is 215 N. 1st Avenue E., Duluth, MN 55802.

1. **AGREEMENT:** Elert & Associates (E&A) agrees to provide the following services and the Client agrees to pay for these services according to the terms and conditions set forth in this agreement. The terms and covenants of this agreement are governed under the laws of the State of Minnesota.
2. **PRICE:** Services will be provided the Client and fees will be charged for those professional services according to the following rate schedule:

SERVICES PROVIDED: (x) IT Assessment Study

Total Project Fee: \$16,500 plus expenses as described. (For more detailed information on fees and expenses, please see attached proposal.)

Hourly Rates: Professional services provided the Client outside the terms of the project will be billed as follows:

Hourly rates do not include telephone, travel or other related expenses. When visits to the Client premise are necessary, minimum billing is for one hour unless the visit is to an out-of-town location, in which case, minimum billing is for four (4) hours. All hourly billing is based on 1/4 hourly increments.

Advisory Services Per Hour:	\$175 Senior Consultant/Principal
	\$165 Network/Multimedia Consultant/Engineer
	\$165 Telecommunication Consultant
	\$135 Consultant
	\$110 Staff Consultant
	\$ 65 CAD
	\$ 45 Administrative Support

3. **SCHEDULING:** Elert & Associates will initiate actions required for the agreed project immediately and will schedule all activities to conform to mutually agreed-on completion dates.

4. **ATTACHMENTS:** The following schedules have been provided and are made part of this agreement:

(x) Proposal for Services dated April 10, 2013 and updated May 22, 2013.

5. **TERMS:** Client agrees to pay for services when invoiced by Elert & Associates within 30 days of receipt of invoice. A finance charge of one percent will be applied to all unpaid balances 30 days from date of invoice. Should any action be required for non-payment, E&A has the right to charge the Client for costs and professional fees necessary for the collection of said debt.

6. **EXCLUSIVE REMEDIES AND LIMITATIONS OF LIABILITIES:** E&A acts in an advisory capacity and, as such, takes no responsibilities for management actions that are at the discretion of the Client. E&A and Client agree that E&A has no liability for failure of equipment or service which was not provided by E&A to the Client under the terms of this agreement.

For purposes of the exclusive remedies and limitations of liability set forth in this section, "Elert & Associates" shall be deemed to include E&A, its subsidiaries and their affiliates, and the directors, officers, employees, agents, representatives, subcontractors and suppliers of all of them; and "damages" will refer collectively to all injury, damage, loss or expense incurred.

E&A shall not be liable for indirect, incidental, special or consequential damages or for lost profits, savings or revenues of any kind, including but not limited to charges for common carrier telecommunication services or facilities accessed through or connected to products on which E&A has consulted.

7. **PROJECT SCOPE:** Work activities and services to be performed by E&A are only those described in the proposals as shown in Item 4 Attachments. If services other than those proposed and agreed upon are requested by the Client, it will be understood that these services will be billed at the hourly rate schedule shown in Item 2 and are additional to the agreement. Fees in excess to the authorization will be negotiated with, and agreed to, by the Client. Any dispute that cannot be resolved to the mutual satisfaction of both parties will be cause for termination of the project(s) with E&A having the right to collect for expenses and services rendered to date of termination.

8. **CONTRACT CANCELLATION:** Either party reserves the right to cancel this agreement with written notice 30 days prior to the date of cancellation. Fees for services and all other expenses provided up to the time of cancellation will be billed to the Client and are payable upon receipt and are subject to late payment charges. Also, a request for termination by the Client, where fees are based on project basis will result in a Client liability for 30 percent of the remaining project fees at date of cancellation.



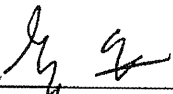
9. **DISPUTE SETTLEMENT:** Both parties agree that in the event of substantial differences on interpretation of contract obligations, the contract key personnel will meet with the purpose of resolving those differences. In the event those differences remain unresolved, the President of E&A will meet with the key decision-maker at Duluth Public Schools with authority over the contract, with the purpose of resolving those differences.

In the event those differences remain unresolved, claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Rules of the American Arbitration Association currently in effect.
10. **PRIVACY OF INFORMATION:** All information, written or oral, is considered to be proprietary and confidential to Elert & Associates and their clients. Distribution of proposals, reports or any other information is not allowed unless written consent by the Client or E&A is obtained. E&A will reserve the right to pursue legal action for damages if violations to this clause occur during or after engagement of services.
11. **PROJECT IMPLEMENTATION:** Where fees are based on a project basis including implementation of services and/or equipment, initiation of these or suitable alternatives must occur within 60 days of the delivery of said recommendation. If implementation does not occur within the required timeframe, E&A reserves the right to invoice the Client for total project costs. This will constitute conclusion of the agreement and will result, if required by the Client, in further services to be provided at the hourly rates shown in Item 2.
12. **OTHER:** Our fees do not include costs for E&A to act as witness (in any capacity) for any litigation. Any cost of attorney fees in defense of a purchase decision is the sole responsibility of the Client.
13. **SPECIAL PROVISIONS:** Client agrees not to hire or in any means offer employment to any of Elert & Associates' personnel during or for a period of 12 months following the completion of the project. However, if Client offers employment and it is accepted, Client agrees to pay Elert & Associates an amount equal to 18 months of said E&A employee's compensation as liquidated damages.

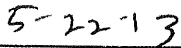


This agreement and the schedules/attachments are the entire agreement between Elert & Associates and Duluth Public Schools. Any changes, additions, or modifications must be in writing and be signed by authorized representatives of both parties.

ELERT & ASSOCIATES:

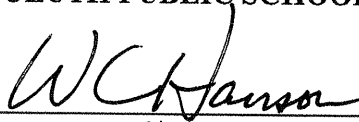


Gary A. Elert, President
Elert & Associates
140 Third Street South
Stillwater, MN 55082



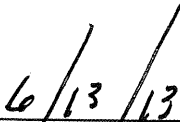
Date

DULUTH PUBLIC SCHOOLS:



Signature
BILL HANSON

Printed name



Date
CFO

Title



elert & associates
technology consultants

140 third street south, stillwater, mn 55082
phone . 651.430.2772, fax . 651.430.2661 www.elert.com

April 10, 2013

Mr. Jody LeBlanc
Finance Manager
Duluth Public Schools
215 N. 1st Avenue E.
Duluth, MN 55802

Dear Mr. LeBlanc:

Elert & Associates is pleased to provide this proposal for an assessment of Duluth Public Schools' IT systems and services. We believe you will find we are a great fit for your project. Our team is both highly qualified and prepared to move quickly to meet your needs.

Once you have had a chance to review the proposal, please feel free to give us a call at (651) 705-1222.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary Elert', with a stylized flourish at the end.

Gary Elert, President
Elert & Associates

Duluth Public Schools

Information Technology Systems and Services Assessment

Updated May 22, 2013
April 10, 2013

Prepared by:

Gary Elert
Wendy Chretien



Elert & Associates
651-430-2772
www.elert.com

Table of Contents

	Page
UNDERSTANDING OF THE PROJECT.....	2
SCOPE OF WORK	2
PROJECT APPROACH	3
OVERVIEW OF THE WORK	3
SPECIFIC APPROACH	3
FEE PROPOSAL	8
OPTIONAL E&A SERVICES.....	8
SERVICES OUTSIDE THE SCOPE OF WORK	9
SELECTED REFERENCES	9
ASSIGNED PERSONNEL.....	9

Understanding of the Project

Through discussions with Duluth Public Schools personnel, Elert & Associates understands the District wishes to evaluate its current state of technology systems, services, and staffing throughout the district. Therefore, Elert & Associates is pleased to provide the following proposal for consulting services to assist Duluth Public Schools.

Scope of Work

The proposed Scope of Work includes:

1. Technology management, including documentation, processes, and plans
2. IT staffing and organizational structure
3. Network security policies and procedures (excludes vulnerability audit)
4. cursory review of inside building cabling and technology rooms/equipment rooms
5. Local area network electronics, including wireless LANs
6. Wide area network physical connectivity and electronics
7. Physical security (video surveillance, intrusion detection, door access)
8. Voice systems, including voice mail/messaging
9. Video distribution and broadcast systems
10. Public address, bell and clock systems
11. Multimedia systems (classroom audio/video)

Optional (not within proposed scope, but may be added):

- a. Common core readiness assessment
- b. Network security vulnerability audit and penetration testing
- c. Business continuity planning or review of current plan
- d. Testing and/or documentation of infrastructure cabling
- e. Two-way radio systems
- f. Internet services
- g. Network testing/audit

Excluded:

Assessment of: instructional software, online course management systems, web services, grading software, fire safety systems, food service systems, finance systems, human resource systems, library circulation and inventory control, transportation systems, HVAC and building control systems, copiers, facsimile machines, and other systems not specifically noted as being within the scope.

Project Approach

Overview of the Work

1. Review existing information, documentation and plans.
2. Examine existing systems and services.
3. Identify technology needs.
4. Examine staffing levels and expertise.
5. Compare current systems and support to needs.
6. Create a Technology Assessment Report that delineates the District's current state of technology systems, services, and staffing; identifies the gaps between the existing systems, staff expertise, and needs; and provides recommendations to fill the identified gaps.

Specific Approach

We propose to take a tactical approach to this project. Our methodology would include the following tasks:

TASK 1 - Project initiation meeting:

- a. Introduce E&A team members and discuss their roles.
- b. Exchange contact information.
- c. Discuss communications procedures and formats.
- d. Review the Scope of Work to ensure a full and mutual understanding.
- e. Review and discuss project timeline/schedule.
- f. Discuss availability of district resources (e.g., personnel to guide us within buildings, arrange meetings).
- g. Set up periodic progress meetings, and determine who should attend, how long meetings should be, and what is expected from attendees.
- h. Determine dates for first series of on-site information-gathering visits and meetings/interviews.
- i. Discuss who from District should be available for those meetings.

- TASK 2 -** Formulate checklists of needed information and provide those to District for completion. Checklists may include requests such as:
- a. Listings of key contact personnel
 - b. Written technology policies and procedures
 - c. Existing technology plan documents (formal and informal)
 - d. Organizational charts for overall District and for IT Department
 - e. IT department position descriptions and compensation information
 - f. Budget and prior years' expenditures
 - g. Building floor plans
 - h. Diagrams of current technology systems, as available
 - i. Inventories of technology systems, as available
 - 1) Server systems
 - 2) Network switches and routers
 - 3) Wireless LAN systems
 - 4) Laptop and desktop computers
 - 5) SAN
 - 6) Video systems
 - 7) Security systems

- TASK 3 -** Conduct on-site information gathering(s) to review needs and gain an understanding of:
- a. Technology highlights/successes at Duluth Public Schools
 - b. Potential roadblocks to the effective use of technology – equipment, support, processes, etc.
 - c. User needs and requirements
 - d. User suggestions for improvement

Meetings may include:

- a. Superintendent
- b. Business Manager
- c. Technology Director
- d. Selected School Board (OPTIONAL)
- e. Help Desk

- f. Appropriate building and department management staff to ascertain current level of technology services and future requirements – equipment, features, support (assume 6 meetings, some may be small group)

Attention will be given to the unique needs that schools typically have

TASK 4 - (OPTIONAL) Evaluate network performance of local area networks:

- a. Analyze the attached IP network, cataloging critical IP network attributes. Identify problems such as incorrect subnet masks, duplicate IP addresses, and advertised services not available.
- b. Search for and identify IP routers, subnet information, DHCP and BOOTP servers, Domain Name Servers, SNMP agents and local hosts.
- c. Collect network utilization, collisions, errors, and broadcast statistics.
- d. Monitor the busiest transmitting nodes on the local network and display test results by Source/Destination address pairs.
- e. Provide summary of network performance analysis.

TASK 5 - (OPTIONAL) Analyze performance of wide area network connections among district buildings.

TASK 6 - Visit two buildings to spot check (one classroom at one new and one remodeled school) provided information, examine infrastructure systems firsthand, and make note of items/systems that differ from our previous understanding or which were not mentioned in provided information. Systems to be examined would include:

- a. Technology cabling within buildings
- b. Technology rooms/closets, including environmental conditions
- c. Network switches and routers
- d. Wireless local area network systems
- e. Video systems
- f. Public address, bell and clock systems
- g. Classroom/multimedia systems

NOTE: This scope does not include inventory services. Systems will be spot checked to verify provided information.

TASK 7 - Meet with IT Staff to learn about

- a. Planning and budgeting
- b. Technology policies and procedures
- c. Fault management (troubleshooting)
- d. Network monitoring

TASK 8 - Conduct IT staff assessment services. E&A proposes to discover the District's needs for IT technology support. We will determine the skills needed to provide that level of support, assess capabilities of the current staff members, perform a comparison of needs to current support, and make recommendations for IT staffing to meet the District's existing and recommended needs.

- a. Review needs and identify required functions.
- b. Review job descriptions for current technology staff positions.
- c. Conduct technology-staffing interviews.
 - 1. Interview internal users representing a cross-section of departments to understand:
 - a) Potential roadblocks to effective support of technology – equipment, processes, etc.
 - b) User needs and requirements for support.
 - 2. Interview up to twelve (12) technology support personnel one-on-one to determine:
 - a) How each person rates his/her own skills and comfort level with various types of technology.
 - b) Knowledge level regarding factors related to networking (e.g., Quality of Service, system uptimes/reliability).
- d. Evaluate skills sets of current technology staff to meet needs:
 - 1. Summarize needs from interviews with users.
 - 2. Add a list of requirements based on knowledge gained from work with other clients.
 - 3. Formulate a list of job functions and roles and responsibilities required to meet the Schools' support needs.
 - 4. For department management, construct a matrix comparing management roles needed to those provided by current staffing, and highlighting any missing areas.
- e. Tabulate additional required skills/functions and assign full-time equivalent (FTE) weighting.

TASK 9 - (OPTIONAL) Conduct an online user satisfaction survey of District personnel and analyze responses.

TASK 10 - Develop a written summary of the information gathered and preliminary findings and provide for review.

At this point, District personnel would review the submitted findings document, correct any factual errors or misinterpretations, provide feedback regarding additional information required, and suggest any other information or analysis that should be included in the document.

TASK 11 - Review findings with Duluth Public Schools representative(s) (one meeting) and update or correct findings, as needed.

TASK 12 - Compare Duluth Public Schools' technology systems, services, and support staff to identified needs, and catalog the gaps between those.

TASK 13 - Develop recommendations for systems and/or services and staffing to help fill identified gaps:

- a. Provide cost options to fund requirements.
- b. Work with District to prioritize needs.
- c. Finalize cost/benefit technology prioritization.

TASK 14 - Create a draft Assessment and Evaluation Report and provide for review including:

- a. Summary of findings of assessment process
- b. Recommendations regarding current and future staffing support including position descriptions, if different from current
- c. Comparison of present to future costs of alternatives
- d. Recommended next steps

At this point, District personnel would review the submitted document, ask any needed clarification questions, and provide feedback.

TASK 15 - After receipt of feedback, E&A would revise the report, as needed. (One revision is included in proposed fee; subsequent revisions would be at hourly rates.)

TASK 16 - Provide and present a final version of the report to Duluth Public Schools.

- a. Provide one hard copy and one electronic format copy of the Assessment and Evaluation Report document, listing all findings, gaps, and recommendations.
- b. Meet with Duluth Public Schools leadership (one meeting) to answer any questions about the report findings and recommendations.

Fee Proposal

Fee..... \$16,500

Reimbursable expenses would be in addition to professional services fees and are billed at cost (no markup). Reimbursable expenses may include, but are not limited to mileage, lodging, meals, rental vehicles, tolls, and parking.

Travel time will be billed at one-half the hourly rate(s) of the person(s) involved.

Elert & Associates would invoice professional fees, expenses, and travel time monthly.

Optional E&A Services

Once the Assessment report is complete and has been accepted by Duluth Public Schools, Elert & Associates could assist with the following potential services:

- ✓ Complete network performance analysis.
- ✓ Conduct online user satisfaction survey.
- ✓ Assist in preparing or revising a Technology Plan, including technology goals and objectives – taking information and recommendations from previous work into consideration.
- ✓ Create a Design Development/Schematic Design document that would describe various options for the systems and services needed, as well as advantages, disadvantages and budget estimates for those options.
- ✓ Prepare one or more Request for Proposals (RFPs) or Request for Bids (RFBs) for services and/or systems required.
- ✓ Assist with evaluation of proposal responses.
- ✓ Provide a recommendation for selection.
- ✓ Assist with contract negotiations.
- ✓ Support the implementation progress, to the extent required.

Services Outside the Scope of Work

Other services not covered in this document may either be negotiated or be billed at our normal hourly rates:

Senior Consultant/Principal	\$175
Network/Multimedia Consultant/Engineer	\$165
Telecommunication Consultant	\$165
Consultant	\$135
Staff Consultant	\$110
CAD	\$ 65
Administrative Support.....	\$ 45

Selected References

- ◆ **Hopkins School District**
Contact: Mr. Sid Voss, (952) 988-4103, sid_voss@hopkins.k12.mn.us
- ◆ **Independent School District 196**
Contact: Mr. Ed Heier, (651) 423-7793, edward.heier@district196.org
- ◆ **St. Louis Park Public Schools**
Contact: Mr. Tom Marble, (952) 928-6152, marble.tom@slpschools.org
- ◆ **Chatfield Public Schools**
Contact: Mr. Damon Lueck, (507) 867-4210, damon@chatfield.k12.mn.us
- ◆ **Bloomington Schools**
Contact: Mr. Jon Swanell, (952) 681-6423, jswanell@bloomington.k12.mn.us

Assigned Personnel

- ◆ Wendy Chretien, PMP
- ◆ Pete Gray

Please see selected resumes on the following pages.



DULUTH PUBLIC SCHOOLS

*Preparing all students for successful lives in the twenty-first century ...
success in the workplace, success in the home, and success in the community*

AGREEMENT

THIS AGREEMENT, made and entered into this 13th day of June 2013, by and between Independent School District #709, a public corporation, hereinafter called District, Mike Smart, an independent contractor, hereinafter called Contractor.

THE PURPOSE OF THE AGREEMENT is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

The terms and conditions of this Agreement are as follows: (insert as appropriate)

1. **Dates of Service.** This Agreement shall be deemed to be effective on: June 18, 2013 unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.
2. **Performance.** Prepare and deliver keynote presentation of 45-50 minutes and one break out session of 60 minutes on June 18, 2013 at the Duluth School Summer Tech Camp. The Break-out session will include 30 Tips in 60 Minutes that highlights various tools, resources, and concepts about using technology in the classroom.
3. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed (\$1,140) one thousand one hundred forty dollars. Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.
4. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:
 - a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
 - b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.
5. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor.

This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

6. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

7. **Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

10. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

11. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail care of Technology Department, ISD 709, Duluth Public Schools, 215 North 1st Avenue East, Duluth, MN 55802. All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail in care of : Mike Smart

16425 38 th Avenue N.	Plymouth	MN	55446	651-354-1806
Address	City	State	Zip	Phone

12. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

13. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

14. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

15. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

16. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

17. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.


18. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

Workers' Compensation Insurance: Contractor must provide Worker's Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

Commercial General Liability: Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.



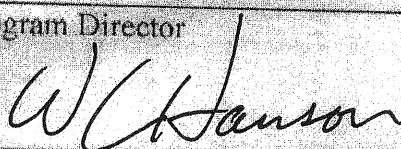
Contractor

~~011-115-9277~~

SSN/ Tax Identification Number

6/14/13

Date

Program Director


Director of Business Service / Superintendent of Schools

Date
6/17/13

Date

AGREEMENT

THIS AGREEMENT, made and entered into this 23rd day of August, 2012, by and between Independent School District #709, a public corporation, hereinafter called District, and Julia M Williams, an independent contractor, hereinafter called Contractor.

THE PURPOSE OF THE AGREEMENT is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

The terms and conditions of this Agreement are as follows:

1. **Dates of Service.** This Agreement shall be deemed to be effective as of August 23, 2012, and shall remain in effect until June 18, 2013, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.
2. **Performance.** (Provide A SEPARATE PAGE detailing a description of the programs or services to be performed by contractor, as well as the funding source for payment.)
3. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$4,950.00. Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. *This Agreement will not be approved unless TIN is provided.*
4. **Requests for Reimbursement.** Contractor shall request reimbursement on a quarterly basis, using either the District Invoice (included as Attachment A) OR the contractor's official invoice. This invoice must be submitted within 10 days of the end of the period being billed for.
5. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.
6. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.
7. **Relationship.** It is agreed that nothing contained herein is intended to or shall be construed in any manner as creating or establishing a relationship between the parties for any purpose whatsoever. Contractor and its officers, agents, servants and employees shall not be construed as employees of the District and any and all claims which may or might arise under the

Worker's Compensation Act on behalf of the Contractor's officers, agents, servants or employees shall in no way be the responsibility of the District.

8. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail care of Bill Hanson, Director of Budget & Finance, ISD 709, Duluth Public Schools, 215 North 1st Avenue East, Duluth, MN 55802. All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to 230 West Sixth Street, Duluth, MN 55806.

(Mailing address, including zip code)

9. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

10. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

11. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

12. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

13. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

14. **Insurance.** (If applicable)

AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

INDEPENDENT SCHOOL DISTRICT NO. 709

CONTRACTOR

Chair

Julia M Williams

Name 


Clerk

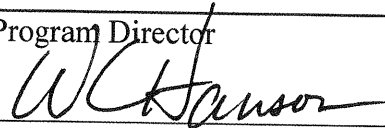
Independent Contractor August 23, 2012

Title

Date

Program Director


Taxpayer Identification Number



Director of Budget and Finance

Date

Addendum to Contract for Services

Description of services

To be provided by independent contractor Julia M Williams, PhD
For ISD #709 – Duluth Denfeld High School for the academic year 2012-2013

Facilitation of transition for Denfeld site based communications to complete:

- Establishment and adoption of revision of norms and by-laws for site decision-making and communications as per district
- Creation and communication of data-informed site goals and documentation of implementation plans
- Charge statements revisions for sub-committees and work groups for shared decision making
- Establishment of protocol for monthly meetings and agendas for multiple leadership committees, support committees, and initiatives
- Monitoring and adjustment processes for combined improvement initiatives
- Creation and facilitation for agendas for Denfeld Advisory

Preparation and facilitation of processes to complete tasks

10 – Half-day sessions @ \$495

\$4,950.00 total

AGREEMENT

THIS AGREEMENT, made and entered into this 10 day of May, 2013, by and between Independent School District #709, a public corporation, hereinafter called District, and Jennifer Gordon an independent contractor, hereinafter called Contractor.

THE PURPOSE OF THE AGREEMENT is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

The terms and conditions of this Agreement are as follows:

1. **Dates of Service.** This Agreement shall be deemed to be effective as of June 12, 2013 , and shall remain in effect until June 12, 2013 , unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.
2. **Performance.** Provide iPad workshop training for art and music teachers in Duluth, MN from 8:30am-4:30pm on June 12, 2013, for the iPad imProv workshop (in addition to planning and problem-solving pre-workshop).
3. **Background Check.** (Applies to contractors working independent with students) Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.
4. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$ 300.00. Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.
5. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:
 - a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
 - b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.
6. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

7. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

8. **Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

9. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail care of _____, ISD 709, Duluth Public Schools, 215 North 1st Avenue East, Duluth, MN 55802. All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail 547 East Pattison, Ely, MN 55731.

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

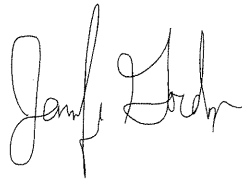
Workers' Compensation Insurance: Contractor must provide Worker's Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

Commercial General Liability: Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

INDEPENDENT SCHOOL DISTRICT NO. 709

CONTRACTOR



Chair

Jennifer Gordon (signature)

SS#


Assistant Professor of Design

Clerk

Title

Program Director

~~XXXXXXXXXX~~
Taxpayer Identification Number



Director of Business Service



FACILITIES MANAGEMENT

Independent School District No. 709

Located at 730 East Central Entrance

Mailing Address: 215 North 1st Avenue East

Duluth, Minnesota 55802

Construction Management (218) 336-8907

Maintenance (218) 336-8906

Operations (218) 336-8905

Fax (218) 336-8909

Memorandum

To: Bill Hanson

From: Kerry M. Leider

Date: June 6, 2013

Re: Amendment of Lease Agreement for Parking Lot Rental near HOCHS – Mansel Properties LLC

Attached please find two copies of the Amendment of Lease Agreement between Independent School District #709 and Mansel Properties LLC for rental of the parking lot near Historic Old Central High School. The rental fee for the parking lot at 1st Avenue East and 2nd Street has not increased since 2002. Effective June 1, 2013, the monthly cost will be increased from \$675.00 per month to \$725.00 per month for an estimated annual cost of \$8,700.00.

I am recommending approval of the Amendment of Lease Agreement with Mansel Properties for the parking lot rental. After review and if you concur, please sign both copies of the Agreement and return them to the Facilities Management office for processing.

Attachments

AMENDMENT OF LEASE AGREEMENT

This Amendment of Lease Agreement is made and entered into this 1st day of June, 2013, by and between INDEPENDENT SCHOOL DISTRICT #709, a public corporation, hereinafter called the Lessee, and MANSEL PROPERTIES LLC, hereinafter called the Lessor.

WHEREAS, the Lessor and the Lessee entered into an Agreement dated December 31st, 2002 to hire and lease from the Lessor, the parking lot located at First Avenue East and Second Street in Duluth, Minnesota, legally described as Lots Seventeen (17) and Nineteen (19), EAST SECOND STREET DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, EXCEPT THE Northwesterly 50 feet thereof; and

WHEREAS, the term of the lease is on a month-to-month basis until terminated by either party upon sixty (60) days written notice; and

WHEREAS, the rent for the above described premises will be increased from \$675.00 per month to \$725.00 per month effective June 1, 2013 with partial months prorated according to the days of occupancy;

NOW, THEREFORE, in consideration of the terms described above, the parties hereto agree that said Agreement shall be amended, and except as herein amended, all other terms and conditions of the original Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment and affixed their seals thereto, the day and year first above written.

MANSEL PROPERTIES, LLC
Lessor

INDEPENDENT SCHOOL DISTRICT NO. 709
Lessee



Tim Pichetti, Managing Member

5-27-13
Date



William Hanson, Dir. of Business Services

6/10/13
Date

5/29/2013 4:22 PM

RECEIVED
JUN 06 2013

I.S.D. #709
FACILITIES MGMT