

**No Child Left Behind Act of 2001  
Supplemental Educational Services Contractual Agreement**

This contract is made and entered between The School Board of Escambia County, Florida, (“School Board”) and XXXXXXXXXX. (0000) (“Provider”) for the purpose of providing Supplemental Educational Services (“SES”) to eligible students pursuant to the No Child Left Behind Act of 2001 (“NCLB”). “Eligible students” are those students identified by the School District who meet specific requirements under Title I, pursuant to the NCLB, and as otherwise specified herein. For the purpose of this contract, "parent" is the natural or adoptive parent, legal guardian, or a surrogate parent as defined by Florida law or pursuant to a court order assigning or determining parental rights.

**I. The School District agrees to:**

- A. Annually notify parents of eligible students to offer Supplemental Educational Services (SES) and provide them with a list of state-approved SES providers;
- B. Assist parents, when requested, in obtaining additional information regarding state-approved SES providers that are available to serve child(ren);
- C. Notify the Provider of the student’s name, school, home address and telephone number of record, to facilitate the Provider’s initial contact with the student’s parents;
- D. Provide compensation to the Provider upon receipt of a proper invoice as described in Section III-O below at a rate of \$XX per session for small or large group instruction for each student. A session shall be a minimum of (sixty) 60 minutes in length. Tutoring shall not exceed (ninety) 90 minutes in a single day. The total cost per year per student shall not exceed the state-approved SES amount of \$X,XXX.XX;
- E. Develop a Student Learning Plan (SLP) agreement in consultation with each eligible student’s parents and the Provider as described in Section III-H below;
- F. Develop a streamlined process for parents to receive information and select an approved service provider; and
- G. Provide continuing enrollment as long as funds are available.

**II. The Provider certifies and guarantees:**

- A. It is on the Florida Department of Education’s current list of state-approved SES Providers for Escambia County, Florida;
- B. A demonstrated record of effectiveness for increasing the academic achievement of students in subjects relevant to meeting the Sunshine State Standards;

- C. It is capable of providing SES consistent with the instructional program of the School District and Sunshine State Standards in content and achievement standards;
- D. It is ready, willing, and able to begin providing services immediately upon signing this contract; and
- E. It is financially sound and otherwise capable of fulfilling its requirements to the School District, students and parents during the term of this contract.

**III. The Provider agrees:**

- A. To provide SES for the 2009-2010 school year upon School Board approval to eligible students consistent with federal and state law, and as specified by the terms of this contract. Services to students for the 2009 - 2010 school year shall begin on or before October 15, 2009, (for at least 80% of assigned students) and must be completed no later than April 15, 2010. Eligible students who have not begun to receive tutoring services by October 30 will be reassigned to another SES Provider of the parent's choice. In the event of contract renewal, services may be provided until the last available administration of the Florida Comprehensive Assessment Test (FCAT) for the current school year, but in no event later than May 1 of the current school year. The Provider shall submit all marketing plans to the District for approval prior to implementing such plans.

The Provider will ensure that SES are:

- 1. Research-based;
- 2. Specifically designed to increase academic achievement of eligible students in accordance with the No Child Left Behind Act of 2001 under the state's assessment system; and
- 3. Designed to enable eligible students to make reasonable progress, given their academic skills when services began, toward attaining proficiency in meeting Sunshine State Standards.

Provide content and instruction that is:

- 1. Consistent with the School District and Sunshine State Standards;
  - 2. Designed to meet the individual needs of the student as indicated by assessment data; and,
  - 3. Neutral regarding matters of religious, political and social ideology.
- B. To provide parents and the School District with monthly reports of students' progress using the District provided format, and to the extent practicable, in a language that the parents can understand;
  - C. To ensure that eligible students may only be registered for the Provider's services by the School District;
  - D. That it will not provide incentives or enticement for enrollment; up to \$50.00 per student may be applied to rewards for progress or attendance;

- E. To utilize the District's data management system, FOCUS, for accessing a listing of students assigned to the Provider, contact and assessment information for assigned students, completion of Student Learning Plan (SLP), recording assignment of tutors, attendance data, and invoice submission.
- F. To meet all applicable federal, state, and local health, safety, and civil rights laws, and School Board Rules, including but not limited to the Americans with Disabilities Act, the Individuals with Disabilities Education Improvement Act, Section 504 of the Rehabilitation Act, 34 CFR, Parts 74 and 80 and all applicable Office of Management and Budget Circulars, Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in the Department of Labor Regulations, and, if applicable, the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738 and Environmental Protection Agency Regulations (40 CFR, Part 15);
- G. To maintain the confidentiality of all students receiving SES and not disclose the identity of any student who is eligible for or receiving SES without the prior written permission of the student's parents, except as authorized by School District personnel;
- H. To enter into a Student Learning Plan (SLP) incorporated herein as Appendix A and is a term of this contract. The SLP agreement shall include and address:
1. The specific achievement goals for the individual student;
  2. A description of how the student's progress will be measured;
  3. A timetable for improving the student's achievement;
  4. Procedures approved by the School District for regularly informing the student's parents, teachers, and the School District of the student's progress;
  5. A provision for termination of the SLP and this contract should the provider fail to meet the goals and timetables specified in the agreement. (This shall not limit the School Board's right to terminate the agreement and/or contract as provided elsewhere in this contract);
  6. If the student has an Individualized Education Plan (IEP), Limited English Proficient Plan (LEPP), or are receiving services under Section 504, the goals and timetables consistent with the IEP, LEPP, or the Section 504 plan;
  7. That changes to a student's SLP may only be made with the written consent of the School District and in consultation with parents. The Provider shall not unilaterally terminate a SLP. The Provider must obtain written authorization from the School District before terminating a SLP; and
  8. That parents shall not be charged for services rendered under the SLP unless such services and charges are clearly identified in writing as additional services independent of this contract and agreed upon in writing by the parents. The School Board shall not be considered a party to such an agreement. Such arrangements shall be completely separate and apart from any agreement between the Provider and the School Board. Agreed upon

charges for additional services shall not obligate the School Board financially, nor shall the School Board incur any obligations or expense in excess of the State/Federal SES reimbursement amount as identified in Section I - D above.

- I. To provide Highly Qualified Instructors as required in the Provider proposal approved by the Florida Department of Education;
- J. To maintain appropriate licenses that are required to provide SES and inform the School District immediately if any licenses are revoked or suspended. The Provider shall comply with all applicable school board rules, federal, state, and local statutes, ordinances, rules and regulations relating to the provision of SES, including securing and maintaining in force permits, certificates of occupancy, and/or licenses required by law in connection with the furnishing of services pursuant to this contract;
- K. To provide direct and appropriate supervision of students during hours designated for the provision of services until students are dismissed to authorized parents;
- L. To ensure that all staff assigned to provide SES have undergone background checks pursuant to §1012.465, Florida Statutes, and approved by the School District prior to the time they begin working with students. The School District shall perform the processing of each applicant's fingerprints. The cost of fingerprinting will be borne by the Provider or the applicant. The Provider agrees not to hire applicants whose fingerprint check results reveal non-compliance with standards of good moral character or conviction for a crime involving moral turpitude or a disqualifying offense pursuant to Section 435.04, Fla. Stat. The School District's Office of Protection Services shall maintain these records;

To conduct general drug screening on applicants as set forth in School Board Rule 6Gx17- 2.36 and the Escambia County Public Schools Drug-Free Work Place Technical Guide, attached hereto as Appendix B. A positive drug test shall result in denial of employment. The cost of drug screening will be borne by the Provider or the Provider's employee;

To submit a listing of all employees who have contact with students including fingerprinting clearance and drug screening results to the Title I office a minimum of ten days prior to the beginning of services;

- M. To notify the School District within twenty-four (24) hours of an accident or incident when a pupil has suffered an injury, has injured another individual, or has been involved in an activity requiring notification of law enforcement or emergency personnel. The Provider agrees to submit a written summary report of the occurrence to the School District within three (3) days of original notification;

That the Provider staff members, including volunteers, shall be familiar with and adhere to child abuse and/or missing children reporting guidelines and procedures

as set forth in state law. The Provider agrees to provide training to all its employees regarding mandated reporting of child abuse and missing children and provide the District with documentation of same. The Provider agrees that all staff members will abide by such laws;

That in the event of an injury, the Provider shall complete a SES Provider Accident/Injury Report that is signed by the parent/guardian, SES provider supervisor, and the school facility administrator and submit it to the School District immediately by facsimile and mail within twenty-four (24) hours of the incident. The report must include the name of the student, date and time of the incident, person supervising the student, whether or not this person witnessed the accident/injury, name of the parent/guardian, a detailed description of the incident, whether or not medical attention was required, course of action taken, and the name of the person completing the report. The Provider shall immediately provide a written report within twenty-four (24) hours to the School District when it is notified or otherwise becomes aware of circumstances including, but not limited to, any allegation of molestation, child abuse, or missing child(ren) under the Provider's supervision;

To notify the School District immediately of any information that may be detrimental to the health or safety of student(s) or that may inhibit the Provider's performance of this contract;

- N. To provide the School District with access to all facilities and records necessary for the School District to monitor compliance with this contract. The Provider shall notify the School District and provide the addresses of locations or changes in location, including permits, certificates of occupancy, facility, in which it will provide SES to eligible students at least ten (10) days prior to the commencement of services. The Provider shall provide access to its SES facilities by the School District's representatives for periodic monitoring of each student's instructional program. The School District's representatives shall have access to observe each student at work during the SES sessions, observe the instructional setting, interview the Provider, and review each student's progress, including a behavior intervention plan, if any;
- O. To submit to the School District in aggregate form on or before the 10th of each month invoices itemized by name/address of student, services provided, dates of attendance and actual numbers of hours for which services were provided, and amount owed using the School District's management system. Such invoices shall be submitted within sixty (60) days of the rendering of services. Invoices submitted more than sixty (60) days after services are rendered are subject to non-payment. The School District shall process payments to the Provider within forty-five (45) days of submission of such invoices. Final invoices shall be submitted no later than May 1 of any calendar year;

- P. To follow School Board policies, regulations and guidelines regarding the selection of students who are to receive SES from the Provider when there are more students requesting SES from the Provider than can be accommodated;
- Q. To be solely responsible for the provision of all appropriate supplies, equipment, and facilities for each student as required in his/her SLP. A Provider who desires to use the School District's facilities to implement its SES must make a separate application for use of facilities through the School District's facilities usage procedures, as outlined in School Board Rule 6Gx17- 5.06, Non-school Use of Educational Facilities; payment for usage of the school shall be submitted to the school principal;
- R. To maintain student records and provide the School District access to the same. All SES student records, including but not limited to attendance, assessments, and progress reports shall be kept by the Provider in a secure location. Access shall be prohibited to unauthorized individuals. The Provider shall maintain a log delineating date, time, agency, and identity of all individuals accessing SES student records. The Provider shall not release a student's record without the written consent of the parents/guardian, or as provided by law. The Provider agrees to maintain the confidentiality of student records in accordance with Section 1002.22, Fla. Stat. and the Federal Educational Rights and Privacy Act;

To deliver all SES student records under its custody or control to the School District's Superintendent upon completion or termination of a student's SLP, and/or termination of this contract upon request;

That the School District shall have the right to inspect and audit the Provider's facilities, records, and observe services being rendered during its hours of operation. The Provider shall provide access to all records, reports, logs, lesson plans, or other matters relating to this contract. Fiscal records created pursuant to this contract and records related to prior school years relating to SES shall be maintained by the Provider for five (5) years and shall be available for audit;

To maintain daily records of student services provided (i.e. portfolio, sign in/out logs) including the name/address of the student, the name of the Provider's employee who rendered the service, and the amount of time of such service. Said records shall be maintained in a manner and form determined by the School District. Such records are subject to the inspection requirements delineated herein. Monthly attendance records for each student shall be submitted with invoices for payment. Any invoice submitted without sufficient attendance documentation may be subject to non-payment. The Provider is paid only for the sessions students attend;

- S. To indemnify, hold harmless and defend the Board, its officers, agents and employees individually and collectively from and against all liabilities, obligations, losses, damages, penalties, interest, claims, actions, assessments fines, suits, demands, investigations, proceedings, judgments, orders or injuries, including death

to any, or damage, of whatever nature, to any property and all costs including court costs and attorneys' fees, and disbursements, whether suit is instituted or not, and if instituted, at all tribunal levels (wherever raised by the parties hereto or a third party) imposed on, or incurred by or asserted against the Board or any of its members arising out of or in connection with or based directly or indirectly upon (a) the performance or non-performance by the Provider's directors, officers, employees, agents, subcontractors or representatives, of their duties and obligations under or pursuant to this agreement, including without limitations, the failure to maintain insurance or notify the District; (b) any material breach of this agreement by the Provider; (c) false or inaccurate representation or warranty made by or on behalf of the Provider; or (d) any act or omission, negligence, or intentional acts of the Provider or any of the Provider's directors, officers, employees, agents, subcontractors or other representatives;

- T. That the Provider shall not attempt to, purport to, or actually lend the faith and credit of the School Board to any third person or entity;

That the Provider shall not defame the District nor use any funds gleaned from the District for the purpose of lobbying;

That the Provider shall not alter or reproduce District documents without prior written consent of the School District or its designee;

- U. To furnish the School District a valid copy of the most recent adopted partnership agreement or bylaws of the corporation with a complete and accurate list of the Governing Board of Directors (or Trustees or Partners or equivalent) timely updating information as changes in governance occur. The Provider shall avoid actual or potential conflict of interest on behalf of itself or its employees providing services hereunder, including but not limited to, employment with the School District. Employees of the Provider that are also employees of the School District shall be immediately disclosed to the School District in writing on the School District Dual Employment Disclosure form, a copy of which is attached and incorporated herein as Appendix C. Employment by the Provider of School District employees must be in accordance with School Board Rule 6Gx17-2.05;

- V. That in the event of a student injury, the SES provider employee is required to complete and submit a SES Provider Accident/Injury Report signed by the parent/guardian, SES provider supervisor and school facility administrators listing the name of the student, date and time of the incident, person supervising the student, whether or not this person witnessed the accident/injury, name of the parent/guardian, a detailed description of the incident, whether or not medical attention was required, course of action taken, and the name of the person completing the report;

- W. To furnish written verification upon request of liability protection in accordance with Section 768.28, Florida Statutes;

- X. That the Provider, at its sole cost and expense, procure and maintain the following types of insurance from insurance carriers duly authorized to do business in the state of Florida, with a general Best's rating of "A" or better and a financial size category of "IV" or better, according to the A.M. Best's rating guide that is acceptable to the Board.

#### Commercial General Liability Insurance

Except as otherwise provided, the commercial General Liability Insurance provided by the Provider(s) shall conform to the requirements set forth as follows:

1. The Provider's insurance shall cover the Provider for those sources of liability (including but not limited to, coverage for operations, products/completed operations, independent contractors, and liability contractually assumed) which would be covered by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office;
2. The minimum limits to be maintained by the Provider(s) (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1 million per occurrence/\$3 million annual aggregate;
3. Except with respect to coverage for Property Damage Liability, the Commercial General Liability coverage shall apply on a first dollar basis without any application of a deductible or a self-insured retention. The coverage for Property Damage Liability shall be subject to a maximum deductible of \$1,000 per occurrence; and
4. The Provider(s) shall include the School Board and its members, officers and employees as "Additional Insured" on the required Commercial General Liability Insurance. The coverage afforded such Additional Insured shall be no more restrictive than that which would be afforded by adding the Board as Additional Insured using the latest Additional Insured Owners, Lessees or Contractors (Form B) Endorsement (ISO Form CG 20 10). The Certificate of Insurance shall be clearly marked to reflect "The School Board of Escambia County, Florida, its members, officers, employees, and agents as additional insured."

#### Automobile Liability Insurance

The Automobile Liability Insurance shall conform to the following requirements:

1. The Provider's insurance shall cover the Provider for those sources of liability which would be covered by Section II of the latest occurrence edition of the standard Business Auto Policy (ISO Form CA 00 01), including coverage for liability contractually assumed, as filed for use in the State of Florida by the Insurance Services Office;
2. Coverage shall be included on all owned, non-owned and hired autos used in connection with this agreement; and

3. The minimum limits to be maintained by the Provider (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1 million per occurrence, and if subject to an annual aggregate, \$3 million annual aggregate.

#### Workers' Compensation/Employers' Liability

The Workers' Compensation/Employers' Liability Insurance provided by the Provider shall conform to the following requirements:

1. The Provider's insurance shall cover the Provider (and to the extent its sub-contractors and sub-subcontractors are not otherwise insured), for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. Nothing in the foregoing shall be construed to alleviate the Provider's responsibility to obtain Workers Compensation insurance for the instructional personnel hired to provide services under this agreement. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable federal or state law; and
2. Subject to the restrictions found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy. The minimum amount of coverage for those coverages customarily insured under Part Two of the standard Workers' Compensation Policy shall be: EL Each Accident: \$500,000; EL Disease- Policy Limit: \$500,000; EL Disease-Each Employee: \$500,000.

#### Professional Liability Insurance

The Professional Liability Insurance provided by the Provider(s) shall conform to the following requirements:

1. The Provider's Professional Liability Insurance shall be on a form acceptable to the Board and shall cover those sources of liability typically insured by Professional Liability Insurance, arising out of or the rendering or failure to render professional services in the performance of this agreement, including all provisions of indemnification which is part of this agreement;
2. The insurance shall be subject to a maximum deductible not to exceed \$25,000;
3. If on a claims-made basis, the Provider(s) shall maintain without interruption, the Professional Liability Insurance until (3) years after this agreement; and
4. The minimum limits to be maintained by the Provider(s) (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1 million per claim/annual aggregate.

By appropriate rider or endorsements to such policies, the Board shall be included as an Additional Insured under such policies, which endorsements or riders shall further provide that coverages thereunder shall be primary without right of contribution of any insurance carried by the Board. Prior to commencement of services hereunder, the Provider(s) shall provide to the School District's office of Risk and Benefits Management copies of the riders or endorsements described above. Each insurance policy evidencing the insurance required hereunder shall bear the appropriate endorsements whereby the insurance carrier waives any rights of subrogation acquired against the District and the students by reason of any payment under such policy and shall provide that such insurance carriers shall notify the District in writing at least thirty (30) days prior to any cancellation, termination, non-renewal or modification to the Provider's Policy(ies) required under this agreement.

Upon execution of this agreement, the Provider shall furnish to the District's Office of Risk and Benefits Management Certificates of Insurance evidencing the Provider's insurance coverage consistent with the terms of the agreement. The Provider shall also provide copies of the policies to the District. The Provider shall also provide the District with renewal or replacement Certificates of Insurance no less than thirty (30) days prior to cancellation, termination or modification. The Provider shall be in material breach of this agreement if the Provider fails to obtain replacement insurance coverage prior to the date in which coverage is terminated or expires. In this event the District may terminate this agreement without further liability to the Provider. Additionally the Provider shall be liable to the Board for all damages incurred due to the Provider's failure to perform the agreement terms;

- Y. To abide by all assurances provided to the Florida Department of Education in the Provider's state-approved Supplemental Educational Services Application and notify the School District immediately if at any time the Provider can no longer certify or meet these assurances; and
- Z. That the Provider shall not discriminate because of race, religion, sex, age, handicap, or sexual orientation in employment or in the operation of its program(s).

**IV. The Parties agree that:**

**A. Term, Renewal, Modification, and Amendment**

The period of this contract shall be October 1, 2009 through April 15, 2010, and shall become effective upon full execution of the contract by both parties. No payment shall be authorized for services provided prior to the full execution of this contract. No payment shall be authorized for services provided to any eligible student for whom the Provider has not submitted to the School District a fully executed, original SLP, including parent's signature. This contract may be modified or amended upon the approval of both parties, and such modifications shall be in writing and executed by the parties. No change in this contract or a student's SLP shall result in a per student School District financial obligation to the Provider in excess of the School District's annual Title I per student allocation as determined by the Florida Department of Education;

B. Source of Funds and Limitations

1. Nothing in this contract shall be construed to require the School Board to meet its financial obligations with funds or sources of funding that are not specifically provided pursuant to and available for expenditure under the No Child Left Behind Act of 2001; nor does this contract create a multiple fiscal year obligation. Any financial commitment on the part of the School Board contained in this contract is subject to annual appropriation by the School District, federal and/or state governments, as applicable. The Parties agree the School Board has no obligation to fund the financial obligations under this contract other than the current year of the contract term subject to the requirements and funding of the No Child Left Behind Act of 2001, or until the contract is terminated.
2. The School District may withhold payment to the Provider with ten (10) working days written notice of such withholding, when in the opinion of the School District:
  - a. The Provider's performance in whole or in part, either has not been carried out, or is insufficiently documented;
  - b. The Provider has neglected, failed, or refused to furnish information or cooperate with the inspection, review, or audit of its program, work, or records;
  - c. The Provider has failed to accept attendance in the SES software in a timely manner.
3. Upon notice by the School District of its intent to withhold payment, the Provider shall have fourteen (14) days from the day of receipt of said notice to correct the deficiency and/or may invoke the dispute resolution provision herein. If the Provider fails to respond within fourteen (14) days, any claim regarding the withheld payment is forever relinquished and waived.

C. Transportation will be provided at no cost to the provider by the School District within normal attendance zones for services provided on School District school campus locations only.

D. Dispute Resolution

Disputes between the School Board and the Provider concerning the interpretation of requirements, or performance of this contract shall be submitted in writing and delivered in person or by certified mail to the Director, Title I, at 1403 St. Joseph Avenue, Pensacola, Florida 32501.

E. Subcontract and Assignment

The Provider shall not subcontract or assign any of the work contemplated under this contract.

F. Default

Failure on the part of the Provider to comply with or fulfill any term, condition, or timeline as specified in this contract or the SLP will place the Provider in default of its obligations. If the School District determines the Provider is in default, the School District shall notify the Provider in writing immediately of the specific grounds for which a default has been determined and shall have the right to withhold payment of all outstanding invoices. The Provider shall have seven (7) days from receipt of Default Notification from the School District to respond in writing with a plan to cure the default. If the default is not cured within fifteen (15) days of the School District's Notification to the Provider, the School Board may, at its sole discretion terminate the contract. If the contract is terminated under this default provision, the School District shall only be liable for payment for services provided through the termination date, unless the cause for default is failure by the Provider to supply adequate documentation of the services provided, in which case no payment shall be due. If it is determined that the cause of the default may endanger the health, safety, or welfare of students receiving SES from the Provider, this contract may be terminated immediately.

G. Termination

During the term of this contract, the School Board shall retain the right to terminate this Contract with or without cause upon thirty (30) days prior written notice, except under circumstances as identified above. The Provider may also elect to terminate this contract upon thirty (30) days written notice; however, in no event shall the Provider's exercise of its right to terminate this contract alleviate the Provider of its responsibilities to complete existing SLP's. In the event of termination that is not occasioned by Provider's default, the School District shall pay, without duplication, for all services satisfactorily performed up to the date of termination. In consideration of this payment, the Provider waives all rights to any further payment from the School District.

H. Independent Contractor

This contract is by and between two independent agents, and is not intended to, and shall not be construed to create an agent, servant, employee, partnership, joint venture, or association relationship between the parties hereto. The Provider understands and agrees that it shall be responsible for providing its own salaries, payroll taxes, withholding, insurance, workers compensation coverage, and all other benefits of any kind, as required by law for its own employees, and assumes the full responsibility for the acts, and/or omissions of his/her employees or agents as they relate to the services to be provided under this contract. The School Board assumes

no liability related to the provision of services by the Provider beyond reimbursement to the Provider for services as identified in this contract. The parties shall in no event be construed to be partners, joint ventures, or associates of the other in the conduct of each party's business, nor shall the School Board be liable for the debts of the Provider in the conduct of the Provider's business. The Provider and any person working for or on behalf of the Provider shall at all times be regarded as independent contractors, and not employees, servants, or agents of the School District. The Provider and any person working for or on behalf of the Provider shall provide all necessary materials for effective performance of duties. The Provider agrees to comply with all applicable laws, including but not limited to state, federal and local tax laws; local and state laws concerning the licensing and operation of a business of the nature contemplated herein; local and state laws relating to health and safety, state and federal laws relating to nondiscrimination in employment, workers' compensation laws, and state and federal wage and hour laws.

I. Non-Exclusivity

This contract does not grant to the Provider any exclusive privileges or rights; the School Board may contract with other Providers for the procurement of comparable services. The School Board makes no commitment to request from the Provider any minimum or maximum amount of services hereunder, except as otherwise set forth in this contract.

J. Severability

If any provision of this contract is determined to be unenforceable or invalid by a court of competent jurisdiction, the remainder of the contract shall remain in full force and effect.

K. Governing Law

The laws of the State of Florida shall govern the terms and conditions of this contract with jurisdiction and venue over any dispute in Escambia County, Florida. Nothing contained in this contract shall give or allow any claim or right of action whatsoever to any other party or third party. It is the express intent of the parties to this contract that any person receiving services or benefits hereunder shall be deemed an incidental beneficiary only.

L. Notices

Every notice, approval, consent or other communication authorized or required by this contract shall not be effective unless same shall be in writing and sent prepaid postage by United States Certified Mail, directed to the other party at the address provided herein or such other address either party may designate.

As to the District:  
Director, Title I and Related Services  
1403 St. Joseph Avenue  
Pensacola, Florida 32501

As to the Provider:

M. Schedule of Appendices

- A -- Student Learning Plan
- B -- School Board Rule 6Gx17- 2.36 and the Escambia County Public Schools Drug-Free Work Place Technical Guide
- C -- Provider/School Board Dual Employment Disclosure form
- D -- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

N. Entire Agreement

This contract represents the entire agreement between the parties. No other promises or agreements have been made. This contract supersedes any prior agreements, understandings, promises, or representations, whether oral or in writing. The parties have incorporated into this contract their entire understanding of the requirements under this agreement. Each party acknowledges that it has read this contract carefully, fully understands the meaning of the terms of this contract, and is knowingly and voluntarily signing this contract. The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the provisions of this contract shall not be construed as a waiver or relinquishment for the failure of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment of any rights or privileges established by this contract shall be deemed to have been made by either party unless in writing and signed by the parties.

No Child Left Behind Act of 2001  
Supplemental Educational Services Contractual Agreement

FOR THE PROVIDER:

Signed and effective this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Name of Supplemental Educational Service Provider: \_\_\_\_\_

Tax Identification Number: \_\_\_\_\_

Supplemental Educational Service Provider Authorized Representative: \_\_\_\_\_

FOR THE SCHOOL BOARD OF ESCAMBIA COUNTY, FLORIDA:

Signed and effective this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Patricia Hightower, Chair

Attest: \_\_\_\_\_  
Malcolm Thomas, Superintendent

SAMPLE

APPENDIX A  
 SCHOOL BOARD OF ESCAMBIA COUNTY, FLORIDA  
 Title I Supplemental Educational Services

STUDENT LEARNING PLAN

Student \_\_\_\_\_ Student ID Number \_\_\_\_\_

School \_\_\_\_\_ Grade \_\_\_\_\_

Address \_\_\_\_\_ Home Phone \_\_\_\_\_

SES Provider \_\_\_\_\_ SES Provider Phone \_\_\_\_\_

SES Address \_\_\_\_\_ City/State \_\_\_\_\_

SES Instructor \_\_\_\_\_ Zip Code \_\_\_\_\_

<b>PARENT AGREES TO:</b>
Participate in the development of the SES Academic Plan.
Participate and ensure that his/her child actively participates in the learning process.
Ensure that his/her child attends the scheduled sessions for the duration of the Student Learning Plan.
Complete a satisfaction survey before terminating or withdrawing my child.
Ensure that his/her child attends the program regularly. If he/she is absent more than five (5) times, my child may be dropped from the SES program (tutoring).
NOTE: Parent expressly acknowledges that transportation to and from the Provider is the responsibility of the parent/guardian unless other arrangements have been agreed upon as follows:
I hereby agree to abide by the terms and conditions of this document. I further consent to the release of my child's test scores and other academic assessment documents to the SES Provider in order to develop a SES Academic Plan.
Parent Signature _____
Date _____
<b>SES PROVIDER AGREES TO:</b>
Participate in the development of the SES academic plan.
Provide services in accordance with all applicable civil rights, State Laws, and established Board Policy for State-Approved SES Providers.
Not disclose to the public at any time the identity of the student receiving SES without prior written consent from the parent.
Report the student's progress to the parent and district representative regarding achievement of the goals: (select one) _____ after each session _____ weekly _____ monthly Other (identify)
Provide services to the student according to the following schedule: Beginning date: _____ Ending date: _____ No. of sessions per week: _____ No. of sessions per month: _____ (Not to exceed the last day of the academic school year)

in which services were initiated.)

Limit number of students per session to \_\_\_\_\_ (maximum). Meeting Time: from \_\_\_\_\_ to \_\_\_\_\_

Location of sessions \_\_\_\_\_ Room

# \_\_\_\_\_

I agree to abide by the terms and conditions of this document and to implement the academic plan developed collaboratively with the parent and district representative.

Provider Signature \_\_\_\_\_

Date \_\_\_\_\_

**THE SCHOOL BOARD OF ESCAMBIA COUNTY, FLORIDA AGREES TO:**

Participate in the development of the SES Academic Plan.

Comply with the District requirements as outlined in the District Provider contract.

**ALL PARTIES ACKNOWLEDGE AND AGREE TO THE FOLLOWING:**

Parent shall have the right to terminate this agreement if Provider fails to meet the goals and the timetables specified in this document.

Any change to the plan of services detailed in this agreement can only be made with the written consent of the School District and in consultation with parent.

This agreement can only be terminated upon written authorization by the School Board or its representative.

Provider may not unilaterally alter or terminate this agreement.

Parent shall not be charged for any services rendered under this plan unless such services and charges are clearly identified in writing as additional services independent of this plan. The School Board shall not be considered a party to such an agreement. Such arrangements shall be completely separate and distinct from any agreement between the Provider and the School Board. In no event shall the agreed upon charges for additional services obligate the School Board financially, nor shall the School Board incur any obligations or expense in excess of the State/Federal reimbursement amount as specified in the governing contract between the School Board and the Provider.

I agree to support and assist in the delivery of tutoring services directly related to the needs of this student as outlined in the SES Academic Plan.

District Representative Signature \_\_\_\_\_  
(Title I Office)

Date \_\_\_\_\_

SCHOOL BOARD OF ESCAMBIA COUNTY, FLORIDA

Title I Supplemental Educational Services Academic Plan

Student \_\_\_\_\_

Student ID Number \_\_\_\_\_

School \_\_\_\_\_

Grade \_\_\_\_\_

Supplemental Educational Services must be consistent with a student's individual education plan under the Individuals with Disabilities Education Act (IDEA), a Limited English Proficient Plan, or individualized services under section 504.

State Goals:

Provide services to the above named student to achieve the following goals that have been developed in consultation with the parent and district representative. The goals will be aligned with the Sunshine State Standards. Attach additional sheets if needed.

Measurement:

Identify the assessment instruments/tools and explain how these instruments/tools will measure student's progress toward achieving the goals stated above:

Timetable:

Implement the following timetable for improving the student's achievement as recorded in this Supplemental Education Services Academic Plan (SESAP).

Classroom Teacher Signature \_\_\_\_\_ Date \_\_\_\_\_  
(Classroom teachers should not make changes. Please sign to show agreement with plan)

Parent Signature \_\_\_\_\_ Date \_\_\_\_\_

Provider Signature \_\_\_\_\_ Date \_\_\_\_\_

District Representative Signature \_\_\_\_\_ Date \_\_\_\_\_  
(Title I Office)



APPENDIX B

FOR ALL EMPLOYEES

DRUG FREE WORKPLACE DISTRICT POLICY  
TO BE READ AND SIGNED PRIOR TO EMPLOYMENT

AS INDICATED BY MY PRINTED NAME AND SIGNATURE, THIS IS TO CERTIFY THAT I HAVE RECEIVED THE NOTICE TO EMPLOYEES REGARDING THE DRUG FREE WORKPLACE DISTRICT POLICY. I UNDERSTAND THAT A CONDITION OF MY CONTINUED EMPLOYMENT IS COMPLIANCE WITH SAID POLICY AND THAT VIOLATION COULD RESULT IN SUSPENSION, TERMINATION, OR REFERRAL FOR PROSECUTION.

EMPLOYEE:

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
WORK LOCATION (SCHOOL OR DEPARTMENT)

SCHOOL DISTRICT REPRESENTATIVE WHO WITNESSED EMPLOYEE SIGNATURE:

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

FILE THIS DOCUMENT IN EMPLOYEE'S PERMANENT FOLDER

#### Rule 6Gx17-2.36 DRUG-FREE WORKPLACE

(1) Personnel of the School District shall not manufacture, distribute, dispense, possess or use on or in the workplace any alcoholic substance, any intoxicating or auditory, visual, or mental altering chemical or substance or narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance, as defined by Federal or State law or rule, or any counterfeit of such drugs or substances all being collectively referred to as drugs.

(2) "Workplace" is defined to mean the site for the performance of work done in connection with employment. That includes any school building or any school premises; any vehicle used to transport students to and from school and school activities off school property during any school-sponsored or school-approved activity, event or function, such as a field trip or athletic event, where students are under the jurisdiction of the School District.

(3) As a condition of employment, each employee shall notify his or her supervisor of his or her conviction of any criminal drug statute no later than five days after such conviction. An employee who violates the terms of this policy may be non-renewed or his or her employment may be suspended or terminated. However, at the discretion of the School District such employee may be allowed to satisfactorily participate in and complete a drug abuse assistance or rehabilitation program approved by the School District in lieu of a non-renewal, suspension or termination. Sanctions and discipline against personnel, including non-renewal, suspension and termination shall be in accordance with prescribed School District procedures and shall be commenced within thirty (30) days of receiving notice of an employee's conviction. Within ten days of receiving notice of an employee's conviction in violation of this rule, the Superintendent shall notify the State and Federal Departments of Education.

(4) A drug-free awareness program is hereby established, and is to be implemented by the Superintendent, to inform personnel of the dangers of drug abuse in the workplace, of the School Board's policy of maintaining a drug-free workplace, of available drug counseling, rehabilitation, and assistance programs, and of the penalties to be imposed for drug abuse violations. As a part of this program, all personnel and applicants for employment shall be given notice of the School Board's policy regarding the maintenance of a drug-free workplace in the following form:

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#### NOTICE TO EMPLOYEES REGARDING DRUG-FREE WORKPLACE PROGRAM

YOU ARE HEREBY NOTIFIED that it is a condition of employment that you refrain from using drugs on or off the job. As part of the Drug-Free Workplace Program the District has instituted a drug-testing program. It is a violation of the policy of the School Board for any employee to manufacture, distribute, dispense, possess or use drugs whether in the workplace or away from the workplace including non-working hours. Lawful consumption of alcohol during non-working hours and away from the workplace that does not adversely impact the employee's work performance or fitness for duty is not a violation of the Drug-Free Workplace Program of School Board Policy.

All employees are subject to drug testing. Refusal to submit to a drug test may subject the employee to termination and, where on-the-job injury is at issue, loss of workers' compensation medical and indemnity benefits. The Drug-Free Workplace Program adopted by the Escambia County School District authorizes the following types of drug tests:

(a) Job applicant. An employer must require job applicants to submit to a drug test and may use a refusal to submit to a drug test or positive confirmed drug test as a basis for refusal to hire the job applicant.

(b) Reasonable suspicion. An employer must require an employee to submit to reasonable suspicion drug testing.

(c) Routine fitness for duty. An employer must require an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination

that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.

(d) Follow-up. If the employee in the course of employment enters an employee assistance program for drug-related problems, or an alcohol and drug rehabilitation program, the employer must require the employee to submit to a drug test as a follow-up to such programs, and on a quarterly, semiannual, or annual basis for up to two years thereafter.

(e) On-the-job injury. If the employee is injured in the course of employment the employee shall be required to submit to a drug test. Necessary medical care will not be denied pending completion of, or submission to, a drug test.

All information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received by the employer through a drug testing program are confidential communications, but may be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, as authorized by law.

Employees may confidentially report the use of prescription or non-prescription medications, both before and after being tested. The reports of the use of prescription drugs should include a copy of the medical prescription. Reports may be made to the employee's supervisor, principal, or director. Reports must be in writing identifying the use of prescription or nonprescription medications. Attached to this notice is a list of the most common drugs or medications by brand name or common name, as applicable as well as by chemical name, which may alter or affect a drug test. (see Attachment "A")

The Escambia County School District has instituted an employee assistance program providing alcohol and drug rehabilitation. Employees seeking information or assistance through the program should contact the Director/Human Resources Services, Escambia County School District, at 215 W. Garden Street, Pensacola, FL 32501, 469-6166, for further information.

An employee or job applicant who receives a positive confirmed drug test may contest or explain the result to the employer within five (5) working days after written notification of the positive test. If an employee or job applicant's explanation or challenge is unsatisfactory to the employer, the person may contest the drug test result as provided by Rule 38F-9.09. (See Attachment "B")

The employee has the right to consult the testing laboratory for technical information regarding prescription or nonprescription medication. A list of drugs for which the employer will test, described by brand names or common names, as applicable, as well as by chemical names, is attached to this notice. (See Attachment "C")

In addition to the right of the employee to challenge or contest the results of any drug test the employee may have additional rights under a collective bargaining agreement, if any. Questions regarding the collective bargaining agreement may be directed to the appropriate bargaining unit representative.

The School District is required to report an employee conviction of drug violations occurring in the workplace to the State and Federal Departments of Education within ten (10) days of receiving such notice and is also required to commence disciplinary action against such employee within thirty (30) days of receipt of the notice of violation.

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#### ATTACHMENT "A"

#### OVER-THE-COUNTER AND PRESCRIPTION DRUGS WHICH COULD AFFECT THE OUTCOME OF A DRUG TEST:

**ALCOHOL** - All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vicks Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof), and Listerine is 26.9% (54 proof).

**AMPHETAMINES** - Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex

CANNABINOIDS - Marinol (Dronabinol, THC)  
COCAINE - Cocaine HCl topical solution (Roxanne)  
PHENCYCLIDINE - Not legal by prescription.  
METHAQUALONE - Not legal by prescription.  
OPIATES - Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, etc.  
BARBITURATES - Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butabital, Phrenilin, Triad, etc.  
BENZODIAZEPINES - Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrex.  
METHADONE - Dolphine, Methadose  
PROPOXYPHENE - Darvocet, Darvon N, Dolene, Etc.

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#### ATTACHMENT "B"

##### CHALLENGES TO TEST RESULTS

(1) A requirement of a drug-free workplace program is that within five (5) working days after receiving notice of a positive confirmed test result, the employee must be allowed to submit information to an employer explaining or contesting the test results. If an employee's explanation or challenge of the positive test results is unsatisfactory to the employer, within fifteen (15) days of receipt of the explanation or challenge, a written explanation as to why the employee's explanation is unsatisfactory, along with the report of positive results, shall be provided by the employer to the employee. All such documentation shall be kept confidential by the employer and shall be retained by the employer for at least one year.

(2) An employer or job applicant may undertake an administrative challenge by filing a claim for benefits with a Judge of Compensation Claims pursuant to Chapter 440 F.S., or if no workplace injury has occurred, the person must challenge the test result in a court of competent jurisdiction. When an employee undertakes a challenge to the results of a test, it shall be the employee's responsibility to notify the laboratory and the sample shall be retained by the laboratory until the case is settled.

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#### ATTACHMENT "C"

##### DRUGS FOR WHICH THE EMPLOYER WILL TEST

Alcohol 0.05g/dl% or above  
Amphetamines  
Cannabinoids  
Cocaine  
Phencyclidine  
Methaqualone  
Opiates  
Barbiturates  
Benziazepines  
Synthetic Narcotics: Methadone, Propoxyphene

Statutory Authority: Sections 1001.32; 1001.41; 1012.23; 440.102, Florida Statutes.

Law Implemented: Sections 1012.22; 440.102, Florida Statutes.

History: New 11/27/90. Amended 10/27/92; 8/27/96; 11/20/01.

APPENDIX C

DISCLOSURE OF DUAL EMPLOYMENT  
OR CONTRACTUAL RELATIONSHIP

TO WHOM IT MAY CONCERN:

I, THE UNDERSIGNED EMPLOYEE OF THE SCHOOL DISTRICT OF ESCAMBIA COUNTY, FLORIDA, HEREBY GIVE NOTICE THAT I HAVE OR HOLD EMPLOYMENT OR A CONTRACTUAL RELATIONSHIP WITH OR AM AN OFFICER, PARTNER, DIRECTOR OR PROPRIETOR OF \_\_\_\_\_ WHICH IS

Print

SUBJECT TO THE REGULATION OF, OR IS DOING BUSINESS WITH SAID SCHOOL DISTRICT. I further understand that I may not share any information or access to such that is available to me as a district employee with this contractor.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SCHOOL DISTRICT EMPLOYEE SIGNATURE

\_\_\_\_\_  
PRINT EMPLOYEE NAME

\_\_\_\_\_  
PRINT WORK LOCATION

Send copies to:  
School District of Escambia County, Florida  
c/o Human Resources Department  
215 West Garden Street  
Pensacola, Florida 32502  
and if applicable  
Supervisor of Elections  
Escambia County Courthouse  
Pensacola, Florida 32502

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Certification Regarding Debarment, Suspension, Ineligibility and  
Voluntary Exclusion - Lower Tier Covered Transactions

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This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,” without modification of all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,” without modification of all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspend-ed, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE
SIGNATURE DATE

ED 80-00014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)