

**Education Achievement Authority
of Michigan**

Equity. Choice. Reinvention.

**RESOLUTION 2012-50
APPROVAL OF MASTER SERVICES AGREEMENT WITH MATCHBOOK LEARNING
SOLUTIONS, INC. FOR OVERALL EDUCATIONAL DEVELOPMENT WITHIN
BRENDA SCOTT ELEMENTARY SCHOOL**

The Executive Committee of the Education Achievement Authority resolves:

1. That the attached Master Services Agreement with Matchbook Learning Solutions, Inc. to provide an overall turnaround plan development and implementation, which includes talent recruitment, teacher development and stakeholder engagement, for Brenda Scott Elementary School, for the EAA of Michigan is approved by the Executive Committee of the Authority as the governing body of the Authority;
2. That the Chancellor of the Authority is authorized to execute the Master Services Agreement on behalf of the Authority, subject to the conditions set forth above;
3. That the Secretary of the Executive Committee of the Authority shall enter the terms of the Master Services Agreement in the minutes of the proceedings of the Executive Committee of the Authority.

Certification:

I certify that this resolution was duly adopted by the Executive Committee of the Education Achievement Authority at a properly-noticed open meeting held with a quorum present on the ____ day of _____.

By: _____
President

By: _____
Secretary



Legal Counsel
Approved as to Form



EDUCATION ACHIEVEMENT AUTHORITY of Michigan
VENDOR CONTRACT JUSTIFICATION FORM

REQUESTER INFORMATION

Date: 7/9/12 Department: Curriculum Requisition No.:

Requester Contact Information: Dr. Mary Esselman 313.496.2957
Name Telephone Number

CONTRACT INFORMATION

Vendor Name: Matchbook Learning Solutions, Inc.

Contract Price: not to exceed \$1,300,000.

Funding Source: Technology

Rebecca Lee-Gwin, Ed.D., Date
Deputy Chancellor, Business, Fiscal Affairs & Operations

Contract Term: 2012-2016 (4 years pending favorable performance and outcomes)

Equipment/Services to be Provided: Vendor will provide turnaround plan development
and implementation which includes talent recruitment, teacher development, and community
relations for Brenda Scott Elementary School.

Justification for Contract: To promote student achievement and teacher development
initiatives for overall growth of Brenda Scott Elementary School.

LEVEL OF IMPORTANCE

[checked] Essential

[] Important

[] Desirable

Legal Counsel
Approved as to Form

REQUIRED APPROVALS
Principal/Department Head Date
Chancellor Date

MASTER SERVICES AGREEMENT

This Master Services Agreement (“**Agreement**”) is entered into this July 9, 2012 (“**Effective Date**”) between the Education Achievement Authority, a Michigan public body corporate (“**EAA**”) and Matchbook Learning Solutions, Inc. (“**Vendor**” or “**Matchbook Learning**”).

WHEREAS, EAA desires to retain Vendor to provide certain services as described herein upon the terms and conditions set forth herein and Vendor is willing to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I SERVICES TO BE PROVIDED

Section 1.1 Services. Each individual service to be provided by Vendor to EAA under this Agreement will be defined by a Service Order in the form of the template attached as **Exhibit A**. Each Service Order shall be signed by both parties and will describe the services to be performed (“**Services**”), the schedule for the performance of the Services (the “**Period of Performance**”), any identifiable work product to be delivered by Vendor (“**Deliverables**”), the fixed price or hourly rate for the Services (“**Fees**”), and any other terms that apply to that specific Service Order (“**Special Terms**”). The parties anticipate the possibility of executing multiple Service Orders outlining separate engagements for services. Each Service Order, together with the terms of this Agreement, constitutes a separate contract that will be effective upon execution of the Service Order by the parties. Each Service Order shall be governed by the terms of this Agreement. Except for those Special Terms in the Service Order that expressly provide that they take precedence over this Agreement, in the event of a conflict between this Agreement and the terms of a Service Order, this Agreement shall govern.

ARTICLE II COMPENSATION

Section 2.1 Fees. All Fees payable to Vendor during the term of this Agreement shall be reflected in each Service Order and shall remain fixed for the duration of the Service Order. Except for the Fees set forth in the applicable Service Order, there are no other fees or costs to be paid by EAA to Vendor. Notwithstanding the foregoing, Vendor acknowledges and agrees that the total amount payable to Vendor hereunder is subject to EAA’s annual budgeted amount for such Services. Furthermore, amounts to be paid to Vendor shall not exceed the maximum dollar amount(s) specified in each Service Order, unless Vendor obtains the prior written approval of EAA and the parties execute a modified Service Order.

Section 2.2 Invoices. Vendor shall submit to EAA monthly invoices of Services performed in the previous month. Invoices shall be submitted to: 3022 W. Grand Blvd., Suite 14-652, Detroit, Michigan, 48202, Attention: Accounts Payable. EAA shall pay invoices for Services satisfactorily performed within 45 days after receipt of an invoice from Vendor. In the event that EAA reasonably disputes any amount that appears on an invoice received from Vendor, the parties shall

work together in good faith to resolve the dispute. EAA shall not be required to pay the disputed portion until the dispute is resolved; provided, however, that (i) EAA continues to pay any undisputed amounts consistent with this Agreement, and (ii) Vendor shall continue to provide all of the Services and otherwise perform its obligations under the Agreement. Nonpayment by EAA of disputed amounts shall not constitute a breach of EAA's obligations regarding payment to Vendor or otherwise be considered a basis for termination of this Agreement.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF EAA

EAA represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying on such representations and warranties in entering into this Agreement and completing the transactions contemplated hereby:

Section 3.1 Organization and Good Standing. EAA is duly organized, validly existing and in good standing under the laws of the State of Michigan, has all requisite power and authority to own, operate and lease its properties and is duly authorized to do business in the State of Michigan.

Section 3.2 Power and Authorization. EAA has all requisite power to enter into this Agreement and to carry out and perform its obligations hereunder. All action required on the part of EAA and its officers, directors and shareholders for the authorization, execution and delivery of this Agreement and the performance by EAA of its obligations hereunder have been taken. This Agreement, when executed and delivered, shall constitute the legal and binding obligation of EAA in accordance with its terms, subject to (a) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief and other equitable remedies and (b) bankruptcy, insolvency, reorganization, moratorium or other similar laws not or hereafter in effect generally relating to or affecting creditors' rights.

Section 3.3 No Conflict or Breach. The execution, delivery and performance by EAA of its obligations under this Agreement will not result in any violation of, be in conflict with or constitute a default under, in any material respect, any material instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation binding upon EAA or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of its properties or assets.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE VENDOR

The Vendor represents and warrants to EAA as follows and acknowledges that EAA is relying on such representations and warranties in entering into this Agreement and completing the transactions contemplated hereby:

Section 4.1 Organization and Good Standing. Vendor is duly organized, validly existing and in good standing under the laws of the State of Georgia, has all requisite power and authority to own, operate and lease its properties and is duly authorized to do business in the State of Michigan.

Section 4.2 Power and Authority. The Vendor has all requisite power to enter into this Agreement and to carry out and perform its obligations hereunder. All action required on the part of the Vendor and its officers, and agents for the authorization, execution and delivery of this Agreement and the performance by the Vendor of its obligations hereunder have been taken. This Agreement when executed and delivered, shall constitute the legal and binding obligations of the Vendor in accordance with its terms, subject to (a) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief and other equitable remedies and (b) bankruptcy, insolvency, reorganization, moratorium or other similar laws not or hereafter in effect generally relating to or affecting creditors' rights.

Section 4.3 No Conflict or Breach. The execution, delivery and performance by the Vendor of its obligations under this Agreement will not result in any violation of, be in conflict with or constitute a default under, in any material respect, any material instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation binding upon the Vendor or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of its properties or assets.

Section 4.4 No Debarment, Pending Governmental Action or Record of Violations. Vendor has not been debarred by either the Federal, State or any local unit of government from providing services, nor is it currently the subject of any debarment or similar proceedings. Vendor has no record of violation of any Federal, State or local government's procurement, contracting or ethics rules.

Section 4.5 Conflicts; No Undue or Improper Influence or Inducement. Vendor represents and warrants that it has disclosed in writing any existing conflicts of interest involving EAA, and that it will disclose in writing to EAA any conflicts that arise during the term of this Agreement. Vendor represents and warrants that it has not and will not offer to EAA or any of EAA's employees any unlawful inducement, prohibited benefit, or improper incentive to enter into this or any other agreement with EAA.

Section 4.6 Performance of Services; Compliance with Law. The Services will be performed in a diligent manner in accordance with industry practices, by individuals of suitable training and skill. Vendor's actions and performance of the Services throughout the term of this Agreement shall be in full compliance with all applicable federal, state and local laws, rules, regulations and standards, including all laws applicable to EAA's operations or to which EAA is otherwise bound. Vendor has and will maintain throughout the term of this Agreement, all licenses, permits, authorizations and approvals necessary for the lawful conduct of its business. No representation or warranty of Vendor contained in this Agreement contains any untrue statement of material fact or omits to state a material fact necessary to make the statements and facts contained herein not misleading.

ARTICLE V TERM AND TERMINATION

Section 5.1 Term. This Agreement commences on the Effective Date and shall continue in effect so long as Services are being provided pursuant to a Service Order, or until terminated as provided herein.

Section 5.2 Termination.

- (a) EAA may terminate this Agreement or any Service Order hereunder without cause by providing at least thirty days written notice of such termination to Vendor.
- (b) Either party may terminate this Agreement for cause upon breach by the other party, which breach remains uncured thirty days after written notice describing such breach is given to the breaching party.
- (c) This Agreement may be terminated immediately by a party upon (i) the commission of an illegal act, unethical practice, or violation of public policy, including theft or embezzlement, by the other party; (ii) conduct by the other party that may adversely affect a party, as determined by such party in its sole discretion, or (iii) the filing of bankruptcy by either party. Further, EAA may terminate this Agreement immediately upon the substantial failure of Vendor to perform the services that it is obligated to perform hereunder in a timely manner or breach by Vendor of the provisions of Article VI.
- (d) Upon the expiration or termination of this Agreement or a Service Order for any reason, Vendor will cooperate with EAA in the orderly completion or transfer of Services and return of all EAA data and information, including any work in progress. Vendor will recover, as its sole remedy, payment for Services satisfactorily completed prior to such expiration or termination and not previously paid for by EAA. Vendor waives and forfeits all other claims for payment including, without limitation, anticipated profits or revenue or other economic loss arising out of or resulting from such termination or expiration.

ARTICLE VI CONFIDENTIAL INFORMATION

Section 6.1 Standard of Care. Vendor acknowledges that it may receive or have access to EAA's "Confidential Information", as that term is defined below. Vendor will protect EAA's Confidential Information with the same degree of care as Vendor uses to avoid unauthorized use, disclosure, publication or dissemination of its own confidential information of a similar nature, but in no event, less than a reasonable degree of care. Vendor shall not disclose or otherwise make available EAA's Confidential Information to any third party without the prior written consent of EAA; provided, however, that Vendor may disclose the Confidential Information to its officers, employees, and contractors who need access to the Confidential Information to perform their obligations to Vendor or EAA and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Article VI. Further, Vendor shall comply will all confidentiality-related guidelines, standards and law applicable to EAA. Vendor agrees to immediately notify EAA in the event Vendor becomes aware of any loss or unauthorized disclosure of EAA's Confidential Information. The provisions of this Article VI shall survive the termination or expiration of this Agreement.

Section 6.2 Confidential Information. “Confidential Information” means any information related to the business, personnel and operations of EAA obtained by Vendor, and may include, but is not limited to, business affairs, data, manuals, financial and accounting data, data and information concerning students, contracts, intellectual property, proprietary information and other operational information. Confidential Information shall not include anything that Vendor can document: (i) was generally available to the public at the time it was received by Vendor, (ii) was known to Vendor, without restriction, at the time of disclosure, or (iii) was independently developed by Vendor without any use of the Confidential Information.

Section 6.3 Return of Confidential Information. Upon expiration or termination of this Agreement, Vendor shall promptly return to EAA all Confidential Information of EAA and all copies, or at EAA’s option, Vendor shall destroy the Confidential Information.

ARTICLE VII AUDITS

Section 7.1 General. Upon reasonable notice from EAA, Vendor shall provide EAA and its agents, regulators, accountants and inspectors access to, and any assistance and information that they may reasonably require with respect to the Services to, among other things, verify the security of EAA Confidential Information and examine Vendor’s performance of the Services to enable EAA to confirm Vendor’s compliance with this Agreement and applicable law.

Section 7.2 Cooperation and Record Retention. Vendor agrees to maintain accurate books and records in connection with Vendor’s performance of the Services. Unless returned to EAA, upon its written request, all such books and records (including, without limitation, all papers, correspondence, data, information, reports, records, receipts, and other sources of information relating to the Services and Fees paid to Vendor) will be held and preserved for the duration of this Agreement and for a period of six years after the expiration or termination of this Agreement. Vendor shall make such books and records available to EAA at EAA’s request. Further, Vendor shall, and shall cause its agents, employees and contractors to provide EAA with all assistance required to enable EAA to comply with applicable law and standards pertaining to the disclosure and confidentiality of such books and records.

ARTICLE VIII INDEMNIFICATION, DAMAGES, INSURANCE AND WARRANTIES

Section 8.1 Indemnification. Vendor shall indemnify and hold harmless EAA and EAA’s employees, agents, directors and officers against all liability arising out of, or resulting from any third party claim, suit, action or proceeding arising out of or resulting from (i) the failure of Vendor or any of its agents, employees or contractors, to comply with the terms of this Agreement or any applicable law; or (ii) any injury, loss, claim or damages arising from the actions or omissions of Vendor or an agent, employee, director, officer or contractor of Vendor.

Section 8.2 Limitation of Liability; No Special Damages. Notwithstanding any other provision of this Agreement, EAA shall not be liable to the Vendor for any damages for loss of profits, loss of revenues, loss of goodwill, loss of anticipated savings, loss of data or cost of purchasing replacement services, or any indirect, incidental, special, consequential, exemplary or

punitive damages arising out of the performance or failure to perform under this Agreement or any Service Order. Nothing in this Agreement shall be construed as a waiver of governmental immunity, where applicable. No such limitation upon Vendor's liability for damages shall exist unless expressly set forth in the Special Terms of the Service Order.

Section 8.3 Insurance.

- (a) At all times during the term of this Agreement, Vendor shall procure and maintain, at its sole cost and expense, the following types and amounts of insurance coverage issued by an insurance company reasonably acceptable to EAA:
 - (1) Commercial General liability, covering bodily and personal injury, property damage, and contractual liability insuring the activities of Vendor under this Agreement, in a minimum amount of One Million Dollars (\$1,000,000) per claim and Five Million Dollars (\$5,000,000) in the annual aggregate, adding EAA as an additional insured with respect to this Agreement.
 - (2) Commercial Automobile liability with limits of One Million Dollars (\$1,000,000) per claim and Five Million Dollars (\$5,000,000) in the annual aggregate, adding EAA as an additional insured with respect to this Agreement.
 - (3) Worker's compensation insurance in amounts required in accordance with applicable laws.
 - (4) Errors and Omissions/Professional liability with limits no less than One Million Dollars (\$1,000,000) per claim and Three Million Dollars (\$3,000,000) in the annual aggregate.
- (b) Upon request by EAA, Vendor shall provide EAA with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Section 8.3. Such certificates of insurance shall not be materially amended or cancelled without thirty days prior written notice to EAA; provided that, prior to such cancellation, Vendor shall have new insurance policies in place that meet the requirements of this Section 8.3.

Section 8.4 Disclaimer of Warranties. EXCEPT AS (1) EXPRESSLY SET FORTH IN THIS AGREEMENT, AND, (2) WITH RESPECT TO VENDOR ONLY, AS SET FORTH IN THE SPECIAL TERMS OF A SERVICE ORDER, NEITHER EAA NOR VENDOR MAKES ANY OTHER REPRESENTATION OR WARRANTY REGARDING THE SERVICES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.

ARTICLE IX DISPUTES

Section 9.1 Informal Dispute Resolution. EAA and Vendor will attempt to settle any dispute through informal good faith negotiations. The dispute will be escalated to appropriate senior level management of the parties, if necessary. If such managers are unable to resolve the dispute within ten business days of referral (or any other mutually agreed upon timeframe), the parties will undertake non-binding mediation as described below in a good faith attempt to resolve such dispute.

Section 9.2 Mediation. There will be a single mediator. If the parties cannot agree upon an acceptable mediator within ten days of termination of the negotiations under Section 9.1, each party will select one mediator from a list of not less than five mediators provided by the other party. These two mediators will select a third mediator who will serve as the sole mediator. Subject to the availability of the mediator, the mediation will occur not more than thirty days after the request for mediation. The mediation process will continue until the dispute (or any part thereof) is resolved or until such time as the mediator makes a finding that there is no possibility of resolution short of referring the parties to final and binding arbitration. The mediation will be held in Detroit, Michigan, unless the mediator, on his or her own initiative, wishes to conduct any mediation proceeding by telephone, facsimile transmission or other means of communication. The cost of mediation, including the mediator's fees and expenses, will be shared equally by the parties. Each party will have the right to be represented by attorneys of their own choosing to advise them before and during the mediation process and their attorneys may review any settlement agreement, or other agreement, which the parties have reached through mediation, prior to the execution of such agreement. The parties agree that the mediator is acting in a neutral capacity and is not serving as an attorney, advocate, representative or fiduciary for either or both of them. Each party will pay its own attorney's fees and costs. In connection with the mediation process, the mediator may meet in confidential "caucus" sessions separately with each party. The mediator will be obligated to treat as confidential and refrain from disclosing to the other party or its counsel any information conveyed to the mediator during the caucus sessions unless the party conveying such information authorized the mediator to disclose it to the other party.

Section 9.3 Binding Arbitration. Should any dispute (or part thereof) remain between the parties after completion of the mediation process described in Section 9.2, such dispute will be submitted to final and binding arbitration in Detroit, Michigan under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), except to the extent that the AAA Rules are contrary to the specific terms of this Section 9.3, provided, however, that at the election of EAA, the arbitration may be done privately and not under the auspices of the AAA, although the AAA rules shall still otherwise govern except as herein stated. There will be three arbitrators. Each party will select one arbitrator. The two arbitrators selected by the parties will select a third arbitrator. At least one of the arbitrators will have at least five years of relevant experience. Each party may be represented by an attorney selected by the party. The costs of the arbitration, including the arbitrators' fees and expenses, will be shared equally by the parties. Each party will pay its own attorney's fees and costs; provided that, if the arbitrators find either party has acted in bad faith, the arbitrators will have discretion to award attorneys' fees to the other party. No party may raise new claims against the other party in the arbitration not raised during mediation. The arbitrators will have the power to resolve all disputes between the parties. The arbitrators will apply the law of the

state of Michigan. The arbitrators will only interpret and apply the terms and provisions of the Agreement and will not change any such terms or provisions or deprive either party of any right or remedy expressly or impliedly provided for in the Agreement. The arbitrators will not have the power to award damages other than those described in the Agreement. The determination of a majority of the arbitrators will be conclusive upon the parties and will be non-appealable. At least thirty days before the arbitration is scheduled to commence, the parties will exchange lists of witnesses and copies of all exhibits intended to be used in arbitration. The parties will be entitled to limited discovery. A stenographic record of the proceedings will be kept, unless waived by both parties, at the equal expense of the parties. The arbitration will be completed within 120 days of the selection of the third arbitrator. The arbitrators will render a written decision, which contains findings of fact and conclusions of law, within thirty days of the conclusion of the arbitration and will specify a time within which the award will be performed. Judgment upon the award, including specific enforcement of the decision, will be entered in any court of proper jurisdiction. The parties have knowingly chosen arbitration as an alternative to proceedings in court and they specifically waive their rights to proceed by any means before a court otherwise having jurisdiction of any dispute between them, except to the extent necessary for injunctive relief or other equitable relief.

ARTICLE X GENERAL PROVISIONS

Section 10.1 Independent Contractor. The Services of Vendor shall be rendered as an independent contractor. The relationship between EAA and the Vendor shall not be that of partners, agents, or joint venturers to one another, and nothing contained in this Agreement shall be deemed to constitute a partnership, agency or employment agreement between them for any purposes, including, without limitation, for federal income tax purposes. Vendor assumes full responsibility for the payment of wages, salaries, and other amount due to all persons engaged by Vendor in connection with the Services performed hereunder, and Vendor will be responsible for all taxes, including Social Security, unemployment and withholding taxes, with respect to such persons. No provision of this contract shall be for the benefit of any party other than the Vendor and the EAA.

Section 10.2 Tax Exempt Status. Vendor acknowledges that EAA is a tax-exempt entity. Vendor may not use any EAA facility for any unauthorized purpose and will not act in any way that might jeopardize EAA's tax-exempt status.

Section 10.3 Entire Agreement and Amendments. This Agreement (including the Service Orders and exhibits), together with the documents delivered pursuant hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, negotiations, representations, discussions and understandings between the parties. This Agreement may be amended only by a written instrument executed by each party.

Section 10.4 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Michigan without giving effect to other conflicts of laws or principles thereof.

Section 10.5 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

Section 10.6 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto. No party to this Agreement may assign its rights under this Agreement to any other person without obtaining the written permission of the other parties in advance.

Section 10.7 No Third Party Beneficiaries. Nothing expressed or referred to in this Agreement is intended or shall be construed to give any person other than the parties to this Agreement or their respective successors or permitted assigns any legal or equitable right, remedy or claim under or in respect of this Agreement it being the intention of the parties that this Agreement and the transactions contemplated hereby shall be for the sole and exclusive benefit of such parties or such successors and permitted assigns.

Section 10.8 Expenses. Each party shall bear its own expenses incurred in connection with this Agreement and with the performance of its obligations hereunder.

Section 10.9 Notices. All written notices, consents, approvals, requests and other communications (“Notices”) required or permitted under this Agreement shall be personally delivered with receipt obtained, or mailed by overnight mail or registered or certified first-class mail, return receipt requested, addressed as follows:

If to the Vendor, to:

Matchbook Learning
4420 Burgess Hill Lane
Johns Creek, GA, 30022
Attention: Mr. Sajan George, Founder & CEO

If to the EAA, to:

Education Achievement Authority
3022 W. Grand Boulevard
Suite 14-652
Detroit, Michigan 48202
Attention: Chancellor’s Office

All Notices shall be deemed given on the day when hand delivered or, if mailed, on the day following the day of mailing. Either party to this Agreement may change its address for the receipt of Notices at any time by giving Notice to the other party as provided in this Section 10.9.

Section 10.10 Further Assurances. Each party promptly shall cause to be taken, executed, acknowledged or delivered all such further acts, conveyances, documents and assurances as any other party from time to time reasonably may request in order to carry out and effectuate the intent and purposes of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives with effect from the day and year first above written.

EDUCATION ACHIEVEMENT AUTHORITY

By: _____
J. Wm. Covington, Ed.D.

Title: _____
Chancellor

Date: _____

Matchbook Learning Solutions, Inc.



By: _____
Sajan George

Title: Founder & CEO

Date: July 2, 2012

Exhibit A

Service Order

Matchbook Learning Scope of Work for Brenda Scott Elementary School, Detroit, MI.

Matchbook Learning agrees to support the EAA and its Principal of Brenda Scott Elementary in turning around this bottom 5% school. Matchbook Learning will work directly for and under the Leadership of Principal Marques Stewart and as part of its turnaround services perform the following:

1. Overall Turnaround Plan Development & Implementation

a. Two full-time Blended Instruction Specialists hired by Matchbook Learning will be on-site at Brenda Scott, 5 days per week, Monday through Friday from 8am till 4pm throughout the school calendar year.

b. Blended Instruction Specialists will be responsible for developing a master project plan that encompasses the Principal's priorities and subject to Principal sign-off. The project plan will encompass the various action steps needed both to transition the school from a traditional school to a blended school, and from a bottom 5% school to a top performing school. Brenda Scott's turnaround will be monitored and managed against this project plan.

c. Updating the plan weekly or as often as needed to reflect the Principal's priorities, the progress of the school against the plan and reporting to stakeholders including the EAA on the school's progress.

d. Matchbook Learning will address, and agrees to resolve to the EAA's satisfaction, any concerns expressed by the Principal of Brenda Scott Elementary and/or EAA Chancellor regarding the Blended Instruction Specialists' effectiveness in providing the turnaround services described above.

2. Talent Recruitment. Matchbook Learning will assist the Brenda Scott School Principal in recruiting, assessing and selecting the right mix, competency and attitudes necessary in building a highly effective, blended instruction team, K-8, across all core content areas and serving as part of the Principal's leadership team to ensure both the transition of the staff to a blended learning environment and their effectiveness within said environment.

3. Blended Teacher Development/Capacity Building

a. Daily Classroom Observations. Blended Instruction Specialists will be in classrooms daily, supporting teachers in their ability and capacity to personalize instruction so students can personalize learning. Supporting teachers in their ability in blended classrooms to engage students, have students create significant work product, use and analyze student data to differentiate instruction and demonstrate teacher leadership.

- b. Bi-weekly 20 Mile March. Every two weeks the Blended Instruction Specialists along with the Principal sit down with each teacher individually, to review their small group student data, answer a series of questions regarding said student data, and forecast new groupings and instructional strategies to prototype based on the student achievement data trends.
- c. Quarterly 3x3x3 Strategic Goal Setting. Once a quarter, Blended Instruction Specialists along with the Principal will meet with each teacher to identify 3 goals in addition to student achievement that each teacher selects regarding what they want to master with respect to becoming an effective blended teacher.
- d. Additional Capacity Building. Work with Principal to determine what aspects of “Matchbook Learning’s Blended U” training should be integrated into its before school training for teachers. Additional training to be identified based on teacher needs not adequately addressed in either the Daily Classroom Observations, Bi-weekly 20 Mile Marches or Quarterly 3x3x3 Strategic Reviews.

4. Stakeholder Engagement

- a. Develop with the Principal of Brenda Scott a stakeholder engagement plan and communication strategy for each of the school’s key stakeholders: EAA, School, Parents, Teachers, Students and Community.
- b. Implement the “When I Grow Up…” Dream campaign to visually display student dreams to target marked improvements in student enrolment, student attendance, student engagement, and parent engagement.
- c. Matchbook Learning’s Design team to assist the Principal with the design, marketing and flow of key stakeholder engagement opportunities (i.e. First Day of School, Parent Night, Open House to the Community, etc.)

Matchbook Learning Term of Engagement:

Commencing on Date Dr. Covington signs contract, 2012 for a 4 year period (pending performance) through, 2016.

Matchbook Learning Budget:

2 Fulltime Blended Instruction Specialists –

salary, benefits, computer, insurance, and training. \$200,000

Matchbook Learning Central Support & Design Team

- Talent Recruitment & Development, Transition and Success in Teaching in a Blended Environment

- Stakeholder Engagement	
- Matchbook Learning Blended Model Design, Capacity Building, etc.	<u>\$125,000</u>
Total	\$325,000
Payment: Billed monthly in arrears at (\$325,000/12)	\$27,083.33/mos.
Amount needed now to start work: 2 months or \$54,166.67	

**Education Achievement Authority
of Michigan**
Equity. Choice. Reinvention.

**RESOLUTION 2012-51
APPROVAL OF MASTER SERVICES AGREEMENT WITH COMPASSLEARNING, INC.**

The Executive Committee of the Education Achievement Authority resolves:

1. That the attached Master Services Agreement with CompassLearning, Inc. to provide educational software and services for the EAA of Michigan is approved by the Executive Committee of the Authority as the governing body of the Authority, subject to further negotiations and/or agreements between the parties;
2. That the Chancellor of the Authority is authorized to execute the Master Services Agreement on behalf of the Authority, subject to the conditions set forth above;
3. That the Secretary of the Executive Committee of the Authority shall enter the terms of the Master Services Agreement in the minutes of the proceedings of the Executive Committee of the Authority.

Certification:

I certify that this resolution was duly adopted by the Executive Committee of the Education Achievement Authority at a properly-noticed open meeting held with a quorum present on the ____ day of _____.

By: _____
President

By: _____
Secretary



Legal Counsel
Approved as to Form



EDUCATION ACHIEVEMENT
AUTHORITY of Michigan

EDUCATION ACHIEVEMENT AUTHORITY of Michigan

VENDOR CONTRACT JUSTIFICATION FORM

REQUESTER INFORMATION

Date: 8/3/12 Department: Curriculum Requisition No.: _____

Requester Contact Information: Dr. Mary Esselman (313) 456-2957
Name Telephone Number

CONTRACT INFORMATION

Vendor Name: CompassLearning, Inc.

Contract Price: \$435,720.00

Funding Source: General Funds

Contract Term: One year, subject to 2 conditional one year extensions.

Equipment/Services to be Provided: Digital instruction content, assessment items, alignment services, and professional development for staff.

Justification for Contract: To enable and support teaching staff to provide personalized instruction and student assessment, and to ensure students meet state and common core standards.

LEVEL OF IMPORTANCE

Essential

Important

Desirable

REQUIRED APPROVALS

Principal/Department Head Date

Chancellor Date

MASTER SERVICES AGREEMENT

This Master Services Agreement (“**Agreement**”) is entered into this [1st] day of [September], [2012] (“**Effective Date**”) between the Education Achievement Authority, a Michigan public body corporate (“**EAA**”) and [CompassLearning, Inc.] (“**Vendor**”).

WHEREAS, EAA desires to retain Vendor to provide certain services as described herein upon the terms and conditions set forth herein and Vendor is willing to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I SERVICES TO BE PROVIDED

Section 1.1 Services. ~~Services~~ Each individual service to be provided by Vendor to EAA under this Agreement will be defined by a Service Order in the form of the template attached as Exhibit A. Execution of this Agreement shall indicate appropriation of full amount for Year 1 items outlined in Exhibit A. Each Service Order shall be signed by both parties and will describe the services to be performed (“**Services**”), the schedule for the performance of the Services (the “**Period of Performance**”), any identifiable work product to be delivered by Vendor (“**Deliverables**”), the fixed price or hourly rate for the Services (“**Fees**”), and any other terms that apply to that specific Service Order (“**Special Terms**”). The parties anticipate the possibility of executing multiple Service Orders outlining separate engagements for services. Each signed and authorized Service Order, together with the terms of this Agreement, constitutes a separate contract that will be effective upon execution of the Service Order by the parties. Each Service Order shall be governed by the terms of this Agreement. Except for those Special Terms in the Service Order that expressly provide that they take precedence over this Agreement, in the event of a conflict between this Agreement and the terms of a Service Order, this Agreement shall govern. All software purchases shall be guided by Vendor End User License Agreement attached as Exhibit C. In the event of a conflict between the main Agreement and Exhibit C, the main Agreement shall prevail.

ARTICLE II COMPENSATION

Section 2.1 Fees. All Fees payable to Vendor during the term of this Agreement shall be reflected in each Service Order and shall remain fixed for the ~~specified period/duration of the Service Order.~~ Receipt of authorized Service Order shall indicate appropriation of full amount for items specified. Except for the Fees set forth in the applicable Service Order, there are no other fees or costs to be paid by EAA to Vendor. Notwithstanding the foregoing, Vendor acknowledges and agrees that the total amount payable to Vendor hereunder is subject to EAA’s annual budgeted amount for such Services. Furthermore, amounts to be paid to Vendor shall not exceed the maximum dollar amount(s) specified in each Service Order, unless Vendor obtains the prior written approval of EAA and the parties execute a modified Service Order.

Section 2.2 Invoices. Vendor shall submit to EAA ~~monthly~~ invoices upon close of order of Services performed in the previous month. Invoices shall be submitted to: 3022 W. Grand Blvd., Suite 14-652, Detroit, Michigan, 48202, Attention: Accounts Payable. EAA shall pay invoices for Services satisfactorily performed within ~~30~~45 days after receipt of an invoice from Vendor. In the event that EAA reasonably disputes any amount that appears on an invoice received from Vendor, the parties shall work together in good faith to resolve the dispute. EAA shall not be required to pay the disputed portion until the dispute is resolved; provided, however, that (i) EAA continues to pay any undisputed amounts consistent with this Agreement, and (ii) Vendor shall continue to provide all of the Services and otherwise perform its obligations under the Agreement. ~~Nonpayment by EAA of disputed amounts shall not constitute a breach of EAA's obligations regarding payment to Vendor or otherwise be considered a basis for termination of this Agreement.~~

ARTICLE III REPRESENTATIONS AND WARRANTIES OF EAA

EAA represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying on such representations and warranties in entering into this Agreement and completing the transactions contemplated hereby:

Section 3.1 Organization and Good Standing. EAA is duly organized, validly existing and in good standing under the laws of the State of Michigan, has all requisite power and authority to own, operate and lease its properties and is duly authorized to do business in the State of Michigan.

Section 3.2 Power and Authorization. EAA has all requisite power to enter into this Agreement and to carry out and perform its obligations hereunder. All action required on the part of EAA and its officers, directors and shareholders for the authorization, execution and delivery of this Agreement and the performance by EAA of its obligations hereunder have been taken. This Agreement, when executed and delivered, shall constitute the legal and binding obligation of EAA in accordance with its terms, subject to (a) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief and other equitable remedies and (b) bankruptcy, insolvency, reorganization, moratorium or other similar laws not or hereafter in effect generally relating to or affecting creditors' rights.

Section 3.3 No Conflict or Breach. The execution, delivery and performance by EAA of its obligations under this Agreement will not result in any violation of, be in conflict with or constitute a default under, in any material respect, any material instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation binding upon EAA or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of its properties or assets.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE VENDOR

The Vendor represents and warrants to EAA as follows and acknowledges that EAA is relying on such representations and warranties in entering into this Agreement and completing the transactions contemplated hereby:

Section 4.1 Organization and Good Standing. Vendor is duly organized, validly existing and in good standing under the laws of the State of [Delaware], has all requisite power and authority to own, operate and lease its properties and is duly authorized to do business in the State of Michigan.

Section 4.2 Power and Authority. The Vendor has all requisite power to enter into this Agreement and to carry out and perform its obligations hereunder. All action required on the part of the Vendor and its officers, and agents for the authorization, execution and delivery of this Agreement and the performance by the Vendor of its obligations hereunder have been taken. This Agreement when executed and delivered, shall constitute the legal and binding obligations of the Vendor in accordance with its terms, subject to (a) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief and other equitable remedies and (b) bankruptcy, insolvency, reorganization, moratorium or other similar laws not or hereafter in effect generally relating to or affecting creditors' rights.

Section 4.3 No Conflict or Breach. The execution, delivery and performance by the Vendor of its obligations under this Agreement will not result in any violation of, be in conflict with or constitute a default under, in any material respect, any material instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation binding upon the Vendor or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of its properties or assets.

Section 4.4 No Debarment, Pending Governmental Action or Record of Violations. Vendor has not been debarred by either the Federal, State or any local unit of government from providing services, nor is it currently the subject of any debarment or similar proceedings. Vendor has no record of violation of any Federal, State or local government's procurement, contracting or ethics rules.

Section 4.5 Conflicts; No Undue or Improper Influence or Inducement. Vendor represents and warrants that it has disclosed in writing any existing conflicts of interest involving EAA, and that it will disclose in writing to EAA any conflicts that arise during the term of this Agreement. Vendor represents and warrants that it has not and will not offer to EAA or any of EAA's employees any unlawful inducement, prohibited benefit, or improper incentive to enter into this or any other agreement with EAA.

Section 4.6 Performance of Services; Compliance with Law. The Services will be performed in a diligent manner in accordance with industry practices, by individuals of suitable training and skill. Vendor's actions and performance of the Services throughout the term of this Agreement shall be in full compliance with all applicable federal, state and local laws, rules, regulations and standards, including all laws applicable to EAA's operations or to which EAA is otherwise bound. Vendor has and will maintain throughout the term of this Agreement, all licenses, permits, authorizations and approvals necessary for the lawful conduct of its business. No representation or warranty of Vendor contained in this Agreement contains any untrue statement of material fact or omits to state a material fact necessary to make the statements and facts contained herein not misleading.

ARTICLE V TERM AND TERMINATION

Section 5.1 Term. This Agreement commences on the Effective Date and shall continue in effect for three years so long as Services are being provided pursuant to a Service Order, or until terminated as provided herein.

Section 5.2 Termination.

- (a) EAA may terminate this Agreement or any Service Order hereunder without cause by providing at least thirty days written notice of such termination to Vendor.
- (b) Either party may terminate this Agreement for cause upon breach by the other party, which breach remains uncured thirty days after written notice describing such breach is given to the breaching party.
- (c) This Agreement may be terminated immediately by a party upon (i) the commission of an illegal act, unethical practice, or violation of public policy, including theft or embezzlement, by the other party; (ii) conduct by the other party that may adversely affect a party, as determined by such party in its sole discretion, or (iii) the filing of bankruptcy by either party. Further, EAA may terminate this Agreement immediately upon the substantial failure of Vendor to perform the services that it is obligated to perform hereunder in a timely manner or breach by Vendor of the provisions of Article VI.
- (d) Upon the expiration or termination of this Agreement or a Service Order for any reason, Vendor will cooperate with EAA in the orderly completion or transfer of Services and return of all EAA data and information, including any work in progress. Vendor will recover, as its sole remedy, payment for goods and services received provided and Services satisfactorily completed prior to such expiration or termination and not previously paid for by EAA. Vendor and EAA waives and forfeits all other claims for payment including, without limitation, anticipated profits or revenue or other economic loss arising out of or resulting from such termination or expiration.

ARTICLE VI CONFIDENTIAL INFORMATION

Section 6.1 Standard of Care. Vendor acknowledges that it may receive or have access to EAA's "Confidential Information", as that term is defined below. Vendor will protect EAA's Confidential Information with the same degree of care as Vendor uses to avoid unauthorized use, disclosure, publication or dissemination of its own confidential information of a similar nature, but in no event, less than a reasonable degree of care. Vendor shall not disclose or otherwise make available EAA's Confidential Information to any third party without the prior written consent of EAA; provided, however, that Vendor may disclose the Confidential Information to its officers, employees, and contractors who need access to the Confidential Information to perform their obligations to Vendor or EAA and who are themselves bound by nondisclosure obligations at least

as restrictive as those set forth in this Article VI. Further, Vendor shall comply will all confidentiality-related guidelines, standards and law applicable to EAA. Vendor agrees to immediately notify EAA in the event Vendor becomes aware of any loss or unauthorized disclosure of EAA's Confidential Information. The provisions of this Article VI shall survive the termination or expiration of this Agreement.

Section 6.2 Confidential Information. "Confidential Information" means any information related to the business, personnel and operations of EAA obtained by Vendor, and may include, but is not limited to, business affairs, data, manuals, financial and accounting data, data and information concerning students, contracts, intellectual property, proprietary information and other operational information. Confidential Information shall not include anything that Vendor can document: (i) was generally available to the public at the time it was received by Vendor, (ii) was known to Vendor, without restriction, at the time of disclosure, or (iii) was independently developed by Vendor without any use of the Confidential Information.

Section 6.3 Return of Confidential Information. Upon expiration or termination of this Agreement, Vendor shall promptly return to EAA all Confidential Information of EAA and all copies, or at EAA's option, Vendor shall destroy the Confidential Information.

ARTICLE VII AUDITS

Section 7.1 General. Upon reasonable notice from EAA, Vendor shall provide EAA and its agents, regulators, accountants and inspectors access to, and any assistance and information that they may reasonably require with respect to the Services to, among other things, verify the security of EAA Confidential Information and examine Vendor's performance of the Services to enable EAA to confirm Vendor's compliance with this Agreement and applicable law.

Section 7.2 Cooperation and Record Retention. Vendor agrees to maintain accurate books and records in connection with Vendor's performance of the Services. Unless returned to EAA, upon its written request, all such books and records (including, without limitation, all papers, correspondence, data, information, reports, records, receipts, and other sources of information relating to the Services and Fees paid to Vendor) will be held and preserved ~~for the duration of this Agreement and~~ for a period of six years after the expiration ~~or termination of~~ of services purchased under this Agreement. Vendor shall make such books and records available to EAA at EAA's request. Further, Vendor shall, and shall cause its agents, employees and contractors to provide EAA with all assistance required to enable EAA to comply with applicable law and standards pertaining to the disclosure and confidentiality of such books and records.

ARTICLE VIII INDEMNIFICATION, DAMAGES, INSURANCE AND WARRANTIES

Section 8.1 Indemnification. ~~Vendor~~ Both parties shall indemnify and hold harmless ~~EAA the other party's and EAA's~~ employees, agents, directors and officers against all liability arising out of, or resulting from any third party claim, suit, action or proceeding arising out of or resulting from (i) the failure of ~~Vendor party~~ or any of its agents, employees or contractors, to comply with the terms of this Agreement or any applicable law; or (ii) any injury, loss, claim or damages arising

from the actions or omissions of ~~Vendor~~ either party or an agent, employee, director, officer or contractor of ~~Vendor~~ either party.

Section 8.2 Limitation of Liability; No Special Damages. Notwithstanding any other provision of this Agreement, EAA shall not be liable to the Vendor for any damages for loss of profits, loss of revenues, loss of goodwill, loss of anticipated savings, loss of data or cost of purchasing replacement services, or any indirect, incidental, special, consequential, exemplary or punitive damages arising out of the performance or failure to perform under this Agreement or any Service Order. Nothing in this Agreement shall be construed as a waiver of governmental immunity, where applicable. No such limitation upon Vendor's liability for damages shall exist unless expressly set forth in the Special Terms of the Service Order.

Section 8.3 Insurance.

- (a) At all times during the term of this Agreement, Vendor shall procure and maintain, at its sole cost and expense, the following types and amounts of insurance coverage issued by an insurance company reasonably acceptable to EAA:
- (1) Commercial General liability, covering bodily and personal injury, property damage, and contractual liability insuring the activities of Vendor under this Agreement, in a minimum amount of One Million Dollars (\$1,000,000) per claim and ~~Two Five~~—Million Dollars (~~\$25,000,000~~) in the annual aggregate, adding EAA as an additional insured with respect to this Agreement.
 - (2) Commercial Automobile liability with limits of One Million Dollars (\$1,000,000) per claim and ~~Five One~~ Million Dollars (~~\$15,000,000~~) in the annual aggregate, adding EAA as an additional insured with respect to this Agreement.
 - (3) Worker's compensation insurance in amounts required in accordance with applicable laws.
 - (4) Errors and Omissions/Professional liability with limits no less than One Million Dollars (\$1,000,000) per claim and Three Million Dollars (\$3,000,000) in the annual aggregate.
- (b) Upon request by EAA, Vendor shall provide EAA with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Section 8.3. Such certificates of insurance shall not be materially amended or cancelled without thirty days prior written notice to EAA; provided that, prior to such cancellation, Vendor shall have new insurance policies in place that meet the requirements of this Section 8.3.

Section 8.4 Disclaimer of Warranties. EXCEPT AS (1) EXPRESSLY SET FORTH IN THIS AGREEMENT, AND, (2) WITH RESPECT TO VENDOR ONLY, AS SET FORTH IN ~~EXHIBIT C THE SPECIAL TERMS OF A SERVICE ORDER~~, NEITHER EAA NOR VENDOR

MAKES ANY OTHER REPRESENTATION OR WARRANTY REGARDING THE SERVICES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.

ARTICLE IX DISPUTES

Section 9.1 Informal Dispute Resolution. EAA and Vendor will attempt to settle any dispute through informal good faith negotiations. The dispute will be escalated to appropriate senior level management of the parties, if necessary. If such managers are unable to resolve the dispute within ten business days of referral (or any other mutually agreed upon timeframe), the parties will undertake non-binding mediation as described below in a good faith attempt to resolve such dispute.

Section 9.2 Mediation. There will be a single mediator. If the parties cannot agree upon an acceptable mediator within ten days of termination of the negotiations under Section 9.1, each party will select one mediator from a list of not less than five mediators provided by the other party. These two mediators will select a third mediator who will serve as the sole mediator. Subject to the availability of the mediator, the mediation will occur not more than thirty days after the request for mediation. The mediation process will continue until the dispute (or any part thereof) is resolved or until such time as the mediator makes a finding that there is no possibility of resolution short of referring the parties to final and binding arbitration. The mediation will be held in Detroit, Michigan, unless the mediator, on his or her own initiative, wishes to conduct any mediation proceeding by telephone, facsimile transmission or other means of communication. The cost of mediation, including the mediator's fees and expenses, will be shared equally by the parties. Each party will have the right to be represented by attorneys of their own choosing to advise them before and during the mediation process and their attorneys may review any settlement agreement, or other agreement, which the parties have reached through mediation, prior to the execution of such agreement. The parties agree that the mediator is acting in a neutral capacity and is not serving as an attorney, advocate, representative or fiduciary for either or both of them. Each party will pay its own attorney's fees and costs. In connection with the mediation process, the mediator may meet in confidential "caucus" sessions separately with each party. The mediator will be obligated to treat as confidential and refrain from disclosing to the other party or its counsel any information conveyed to the mediator during the caucus sessions unless the party conveying such information authorized the mediator to disclose it to the other party.

Section 9.3 Binding Arbitration. Should any dispute (or part thereof) remain between the parties after completion of the mediation process described in Section 9.2, such dispute will be submitted to final and binding arbitration in Detroit, Michigan under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), except to the extent that the AAA Rules are contrary to the specific terms of this Section 9.3, provided, however, that at the election of EAA, the arbitration may be done privately and not under the auspices of the AAA, although the AAA rules shall still otherwise govern except as herein stated. There will be three arbitrators. Each party will select one arbitrator. The two arbitrators selected by the parties will select a third arbitrator. At

least one of the arbitrators will have at least five years of relevant experience. Each party may be represented by an attorney selected by the party. The costs of the arbitration, including the arbitrators' fees and expenses, will be shared equally by the parties. Each party will pay its own attorney's fees and costs; provided that, if the arbitrators find either party has acted in bad faith, the arbitrators will have discretion to award attorneys' fees to the other party. No party may raise new claims against the other party in the arbitration not raised during mediation. The arbitrators will have the power to resolve all disputes between the parties. The arbitrators will apply the law of the state of Michigan. The arbitrators will only interpret and apply the terms and provisions of the Agreement and will not change any such terms or provisions or deprive either party of any right or remedy expressly or impliedly provided for in the Agreement. The arbitrators will not have the power to award damages other than those described in the Agreement. The determination of a majority of the arbitrators will be conclusive upon the parties and will be non-appealable. At least thirty days before the arbitration is scheduled to commence, the parties will exchange lists of witnesses and copies of all exhibits intended to be used in arbitration. The parties will be entitled to limited discovery. A stenographic record of the proceedings will be kept, unless waived by both parties, at the equal expense of the parties. The arbitration will be completed within 120 days of the selection of the third arbitrator. The arbitrators will render a written decision, which contains findings of fact and conclusions of law, within thirty days of the conclusion of the arbitration and will specify a time within which the award will be performed. Judgment upon the award, including specific enforcement of the decision, will be entered in any court of proper jurisdiction. The parties have knowingly chosen arbitration as an alternative to proceedings in court and they specifically waive their rights to proceed by any means before a court otherwise having jurisdiction of any dispute between them, except to the extent necessary for injunctive relief or other equitable relief.

ARTICLE X GENERAL PROVISIONS

Section 10.1 Independent Contractor. The Services of Vendor shall be rendered as an independent contractor. The relationship between EAA and the Vendor shall not be that of partners, agents, or joint venturers to one another, and nothing contained in this Agreement shall be deemed to constitute a partnership, agency or employment agreement between them for any purposes, including, without limitation, for federal income tax purposes. Vendor assumes full responsibility for the payment of wages, salaries, and other amount due to all persons engaged by Vendor in connection with the Services performed hereunder, and Vendor will be responsible for all taxes, including Social Security, unemployment and withholding taxes, with respect to such persons. No provision of this contract shall be for the benefit of any party other than the Vendor and the EAA.

Section 10.2 Tax Exempt Status. Vendor acknowledges that EAA is a tax-exempt entity. Vendor may not use any EAA facility for any unauthorized purpose and will not act in any way that might jeopardize EAA's tax-exempt status.

Section 10.3 Entire Agreement and Amendments. This Agreement (including the Service Orders and exhibits), together with the documents delivered pursuant hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, negotiations, representations, discussions and understandings between the parties. This Agreement may be amended only by a written instrument executed by each party.

Section 10.4 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Michigan without giving effect to other conflicts of laws or principles thereof.

Section 10.5 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

Section 10.6 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto. No party to this Agreement may assign its rights under this Agreement to any other person without notification to ~~obtaining the written permission of~~ the other parties in advance.

Section 10.7 No Third Party Beneficiaries. Nothing expressed or referred to in this Agreement is intended or shall be construed to give any person other than the parties to this Agreement or their respective successors or permitted assigns any legal or equitable right, remedy or claim under or in respect of this Agreement it being the intention of the parties that this Agreement and the transactions contemplated hereby shall be for the sole and exclusive benefit of such parties or such successors and permitted assigns.

Section 10.8 Expenses. Each party shall bear its own expenses incurred in connection with this Agreement and with the performance of its obligations hereunder.

Section 10.9 Notices. All written notices, consents, approvals, requests and other communications (“Notices”) required or permitted under this Agreement shall be personally delivered with receipt obtained, or mailed by overnight mail or registered or certified first-class mail, return receipt requested, addressed as follows:

If to the Vendor, to:

[CompassLearning, Inc.]
[203 Colorado St.]
[Austin, TX 78701]
Attention: Gina Rivera, Director Business Admin

If to the EAA, to:

Education Achievement Authority
3022 W. Grand Boulevard
Suite 14-652
Detroit, Michigan 48202
Attention: Chancellor’s Office

All Notices shall be deemed given on the day when hand delivered or, if mailed, on the day following the day of mailing. Either party to this Agreement may change its address for the receipt of Notices at any time by giving Notice to the other party as provided in this Section 10.9.

Section 10.10 Further Assurances. Each party promptly shall cause to be taken, executed, acknowledged or delivered all such further acts, conveyances, documents and assurances as any other party from time to time reasonably may request in order to carry out and effectuate the intent and purposes of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives with effect from the day and year first above written.

EDUCATION ACHIEVEMENT AUTHORITY

By: _____
John William Covington, Ed.D.

Title: _____
Chancellor

Date: _____

[INSERT VENDOR NAME]

By: _____
~~Trey Chambers~~ [Name of representative of Vendor]

Title: CFO _____
[Title of representative of Vendor]

Date: _____

Exhibit A

SERVICE ORDER TEMPLATE

Services

EAA needs digital instructional content, assessment items, alignment services, and professional development to support teaching and learning in its schools, as well as software integration services to enable the instructional content and assessment items interoperate with its Buzz instructional platform. CompassLearning will provide the deliverables and services outlined below to fulfill that need.

Period of Performance

Work will commence on execution of Master Service Agreement. Execution of this Agreement shall indicate appropriation of full amount for Year 1 items outlined in Exhibit A. Access to software specified will be made available upon Agreement execution. It is anticipated that Integration services will be provided according to mutually acceptable scope and timeline to be determined.

Deliverables

Vendor shall provide the following deliverables and services to EAA.

Multi Year Pricing Quote

Content and Assessment for Odyssey K12 must be purchased simultaneously in matching quantity.

YEAR 1 -2012/2013

<u>Qty</u>	<u>Item</u>	<u>Period</u>	<u>Price</u>	<u>Total</u>
11,700	Odyssey K12 Assessment Single Users	9/1/12 -8/31/13	\$ 6.32/user	\$ 73,944.00
11,700	Odyssey K12 Content Single Users	9/1/12 -8/31/13	\$25.28/user	\$295,776.00
15	Renzulli Unlimited User Site Subs	9/1/12 – 8/31/13	\$2250.00/site	\$ 33,750.00
8	Alignment Level 1		\$1750.00	\$ 14,000.00
5	Odyssey Instructional Coaching – Onsite day		\$1750.00/site	\$ 8,750.00
5	Renzulli Classroom Modeling – Onsite day		\$1750.00/site	\$ 8,750.00
15	Processing Fee		\$50.00/site	\$ 750.00
1	System Integration			\$ 0.00

YEAR 1 Total	\$435,720.00
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CL Initial _____

EAA Initial _____

Pricing will be extended for Years 2 and 3 provided the following minimum order quantities are met:

<u>Product</u>	<u>Year 2 (2013/2014) Min Qty</u>	<u>Year 3 (2014/2015) Min Qty</u>
Odyssey K-12 Single User Subs	25,000	40,000
Renzulli Unlimited User	30	50
ITA training days	18	18

Special Terms

If quantities lower than Specified minimums are ordered, CompassLearning reserves the right to increase unit prices for subscriptions and training. EAA will in good faith use all reasonable and lawful endeavors: (a) for each budget cycle during listed future fiscal periods to promptly secure the appropriation of funds to ensure purchases of out year items under this Agreement, and (b) to execute corresponding CompassLearning Price Quotes as soon as such funds are available. If despite these endeavors, EAA fails to obtain funding for any portion of Subsequent Period, EAA may terminate this Agreement as to the portion of any Subsequent Periods not covered by funding, but only if EAA: (1) gives CompassLearning written notice of a possible funding failure (including an explanation of the reasons, timing and extent) promptly after EAA become aware it is likely and before the commencement of the applicable Subsequent Period, (2) certifies to CompassLearning in writing that funds are not available to purchase any product similar to the affected CompassLearning Software within the affected Subsequent Period. Provided EAA has reported the inability to obtain funds to purchase items in Years 2 and 3, EAA will not, during the remainder of these Periods, purchase rights to use any such products or services similar to the CompassLearning products and services purchased hereunder. For periods on and after such time as EAA provides CompassLearning notice that funds are unavailable, CompassLearning shall have no further obligation to EAA under this Agreement and any amounts paid by EAA continue to be non-refundable.

Professional Fee

The proposed professional fee for this Year 1 project task is \$ 435,720.00. The professional fee shall be billed upon execution and due net thirty (30) days from receipt of invoice.

CL Initial _____

EAA Initial _____

Exhibit B

List of Year 1 School Sites

Nine (9) elementary/middle schools

1. Brenda Scott Elementary/Middle
2. Burns Elementary/Middle
3. Law Academy
4. Mary M. Bethune Elementary/Middle
5. Murphy Elementary/Middle
6. Nolan Elementary/Middle
7. Phoenix Elementary/Middle
8. Stewart Elementary/Middle
9. Trix Elementary/Middle

Six (6) high schools

1. Central Collegiate Academy
2. Denby High School
3. Ford High School
4. Mumford High School
5. Pershing High School
6. Southeastern High School

CL Initial _____

EAA Initial _____

Exhibit C

END USER LICENSE AGREEMENT

PLEASE READ THIS CONTRACT CAREFULLY. BY CLICKING THE ACCEPT BUTTON OR ACCESSING THE SOFTWARE, YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN CONTRACT SIGNED BY YOU. IF YOU DO NOT AGREE, DO NOT CONTINUE TO ACCESS OR USE THE SOFTWARE.

Important: This End User License Agreement supplements the relevant signed quote, invoice or agreement (“Commercial Terms”) entered into by CompassLearning, Inc. (“Compass”) You will not be able to access the software specified in the Commercial Terms unless and until You have read this End User License Agreement (the End User License Agreement and the Commercial Terms, together, the “Agreement”). By accessing such software or authorizing any other person to access such software (for whom You are permitted to provide such access pursuant to the Commercial Terms), You and such other person accept the terms and conditions of this legal Agreement. If You do not agree to the terms of this Agreement, do not click on the button that indicated that you accept the terms of this Agreement, do not access or use the Software, and do contact Your software administrator immediately.

1. Definitions:

“Authorized User” means, with respect to a UUL license, students enrolled with the Customer and/or faculty employed by or under contract with Customer at the sites(s) set forth in the Commercial Terms.

“Customer” means You if you are the purchaser listed on the Commercial Terms or if You are a person able to bind the purchaser listed on the Commercial Terms.

“Virtual School” means a Customer that is (a) a private school licensed by the applicable state where students do not meet physically regularly for learning but where there is a teacher of record available to students enrolled at the institution and much of the learning takes place over the Internet with regular assistance or guidance from the teacher of record or (b) a private tutoring provider that makes available personal attention to each student clients enrolled in a program by faculty of the tutoring provider and such services are the primary purpose of enrollment by Student Clients; and (c) with respect to (a) and (b) a Virtual School is not a school that sells licenses or access to Compass Software on a standalone basis or sells licenses or access to Compass Software to students not actively

CL Initial _____

EAA Initial _____

enrolled in and participating in learning services provided by the private school or tutoring provider.

“You” means an Authorized User and Customer unless the usage indicates that it means only Authorized User or Customer.

2. **License:** The license to a copy of the software made available under this Agreement, whether by web hosting or electronic delivery, in read only memory or any other media, the related documentation and other materials, each as specified in the Commercial Terms (collectively the “Software”) shall either be a UUL License, or a Subscription License, as specified in the Commercial Terms. If not therein specified, the license shall be a Subscription License. Both types of license are subject to the License Restriction paragraph below and are a condition to being a permitted licensee as provided in Section 1.
- 2.A. **UUL License:** If the Commercial Terms specify a unlimited use license or UUL license, the applicable Customer must be a traditional brick and mortar educational institution licensed in your state that provides educational services to students at a common physical location, subject to payment of license fees per the Commercial Terms, Compass hereby grants Authorized User, under its intellectual property rights, a personal, limited, revocable, nonexclusive, nontransferable, perpetual (unless earlier terminated in accordance with this Agreement) license for the use specified in the Commercial Terms for use in connection with Your educational activities (subject to termination as provided below) to use or access, as applicable, a copy of the Software. Software may be accessed only by Authorized Users. The Software may either be installed on Customer servers or hosted by Compass as specified in the Commercial Terms. Unless expressly provided in the Commercial Terms, this license does not extend to and Authorized Users shall not include any students or faculty enrolled in any online or virtual school whether or not affiliated with the Customer. You may not sell, sublicense, distribute or create derivative works of the Software. For the avoidance of doubt, except as expressly provided otherwise in the Commercial Terms, this EULA is not an authorization to distribute, market or resell any Compass products or services. The term of this license is for the access period specified in the Commercial Terms. All Authorized Users shall be required to assent to Compass’ then current end user license agreement.
- 2.B. **Subscription License:** If the Commercial Terms specify a Subscription License, the applicable Customer must be a traditional brick and mortar educational institution licensed in your state that provides educational services to students at a common physical location or a Virtual School, subject to payment of license fees per the Commercial Terms, Compass hereby grants Authorized Users, under its intellectual property rights, a personal, limited, revocable, nonexclusive, nontransferable, license to access and use a copy of the Software for the use specified in the Commercial Terms for use in connection with Your educational activities only for the number of Authorized Users and, if so specified in the Commercial Terms, the specified sites(s) set forth in the Commercial Terms. You must ensure that the number of Authorized Users does not exceed the

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number of user licenses that Customer has purchased. The term of this license is for the access period specified in the Commercial Terms unless earlier terminated in accordance with this Agreement, and if not specified therein for twelve (12) months unless earlier terminated in accordance with this Agreement. All Authorized Users shall be required to assent to Compass' then current end user license agreement.

2.C. **License Restrictions Applicable to UUL License, Subscription License** : Access to the Software may not be made available to third parties other than Authorized Users. You may not permit third parties to benefit from the use or functionality of the Software via a timesharing, service bureau or other arrangement. You may not (and may not permit any other person to) modify, enhance, decompile, disassemble, reverse engineer, or create works derivative of this Software or any subsequent enhancement. You may not share logins or passwords. You must maintain a record of persons having access to the Software and keep such records during the duration of this license and for two (2) years thereafter. Such records shall be made available to Compass upon request. The Software is to be used in Your own internal network and it shall only be used in object code form. If the Software is provided to You on electronic media, You may make one copy of the Software on any computer in readable or printed form for backup or archival purposes in support of Your use of the Software. Otherwise, You have no right to make copies of the Software. Compass assumes no responsibility for the content, operation or quality of any copy made by You. If the Software is delivered to You via electronic media, then You may use only the media appropriate for Your computer network system or single-user computer. You may not use the other discs on another computer or loan, rent, lease, sell or transfer them to another user or entity. You may not use the Software for any purpose outside the scope of this Agreement unless specifically authorized in writing by the CFO or the President of Compass. You may not rent or lease the Software and/or license it to another party, and You may not transfer the Software to a third party without express written permission of Compass. You may not develop, use, market, license, sell, or otherwise distribute any products derived in whole or in part from the Software or based on techniques revealed by Your inspection and use of the Software.

2.D. **U.S. Government License Rights**: The Software is deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Software by the United States Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.

2.E. **Protection of Software**: You agree to take all reasonable steps to protect the Software and its documentation from unauthorized copying, disclosure or use. You shall not alter, change or remove any proprietary notices or confidentiality legends placed on or contained within the Software. You are responsible for keeping your password secure. You will be solely responsible and liable for any activity that occurs under your user name. If you lose your password or the encryption key for your account, you may not be

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able to access the Software or any data maintained therein for You. In the event You become aware of any action that may infringe or misappropriate the intellectual property of Compass, You agree to promptly notify Compass of such action. You shall keep the Software free and clear of all claims, liens, and encumbrances.

3. **Intellectual Property:** No title to the Software shall pass to You. All right, title and interest in the Software, including all intellectual property therein or appurtenant thereto shall remain owned by Compass. The Software source code represents and embodies trade secrets of Compass and/or its licensors. In the event that any derivative work has been deemed to have been created by You or through use of the Software, You hereby assign to Compass any and all intellectual property and proprietary rights, including without limitation any and all copyright rights, related thereto. Compass retains all right, title and interest in the Software and all subsequent enhancements thereto, including without limitation all copyrights and patents embodied therein. Compass reserves the right to audit compliance with this Agreement. Compass reserves all rights not expressly granted to You.
4. **Export Controls:** If the Software is to be used outside of the United States, the user warrants its compliance with all relevant regulations of the United States Department of Commerce and with the U.S. Export Administration Act of 1979, as amended.
5. **Limited Warranty:** Compass warrants the Software to operate substantially in accordance with specifications and documentation published by Compass, provided this SOFTWARE is utilized in accordance with appropriate hardware configurations. This warranty shall continue for a period of thirty (30) days from the date of delivery. COMPASS DOES NOT WARRANT THE OPERATION OF THE SOFTWARE TO BE UNINTERRUPTED OR ERROR-FREE NOR DOES COMPASS MAKE ANY WARRANTY OR REPRESENTATION REGARDING THE USE OF THE SOFTWARE IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. In the event the Software does not operate in accordance with Compass' published specifications and documentation, Compass' sole responsibility will be to use reasonable efforts to correct the defect.
6. **DISCLAIMER OF WARRANTIES:** EXCEPT FOR THE LIMITED WARRANTY EXPRESSLY SET FORTH IN THIS AGREEMENT AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, COMPASS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPASS OFFERINGS AND ANY PART THEREOF OR ANY THIRD PARTY SOFTWARE OR THIRD PARTY HARDWARE OR OTHER MATERIALS, SERVICES, INFORMATION OR TECHNOLOGY. COMPASS SPECIFICALLY DISCLAIMS ALL SUCH WARRANTIES AND REPRESENTATIONS, EXPRESS, IMPLIED OR STATUTORY INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF AVAILABILITY, RELIABILITY, USEFULNESS, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, MEETING YOUR REQUIREMENTS, TITLE, NONINFRINGEMENT, OR THOSE ARISING FROM COURSE OF

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PERFORMANCE, DEALING, USAGE OR TRADE. THE RISK OF PERFORMANCE OF THE SOFTWARE IS ASSUMED BY YOU. ANY THIRD PARTY-OWNED MATERIALS MADE AVAILABLE UNDER THIS AGREEMENT ARE MADE AVAILABLE "AS IS."

7. **LIMITATION OF LIABILITY:** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL COMPASS OR ITS SUPPLIERS BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY DAMAGES, INCLUDING ANY DIRECT, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM COMPASS' OWN NEGLIGENCE, LOST PROFITS, SAVINGS, DATA, THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR OTHER BENEFITS) ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE. THE LIMITATIONS SET FORTH SHALL APPLY EVEN IF COMPASS AND/OR ITS SUPPLIERS ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN NO EVENT SHALL COMPASS', ITS LICENSORS' AND/OR SUPPLIERS' LIABILITY TO YOU AND ALL USERS OF THE SOFTWARE UNDER THE SAME COMMERCIAL TERMS EXCEED THE AMOUNT OF THE LICENSE FEES PAID BY YOU FOR THE USE OF THE SOFTWARE DURING THE PAST TWELVE MONTHS.

This limited warranty gives You specific legal rights. You may have other rights which may vary from state to state. Some states do not allow the exclusion of incidental or consequential damages, or the limitation on how long an implied warranty lasts, so some of the above may not apply to You. This limitation of warranty shall also apply to any support services agreement between You and Compass.

8. **Privacy and Cookies:** By entering into this Agreement, you agree that the Compass privacy policy, as it exists at any relevant time, shall be applicable to you. The most current privacy policy can be found at www.compasslearning.com. By entering into this Agreement, you agree to the transfer of your personal information to Compass's offices (or the offices of its service providers) in the United States and other countries outside of your own. If You are accessing Software hosted by Compass, Compass may gather and maintain a record of Your internet protocol (IP) addresses, browser type, internet service provider (ISP), Your referring and/or exit pages, operating system, a date/time stamp and clickstream data. Compass may use HTML cookies to track information about visitors to Compass sites so that we may understand and improve such sites. A cookie is a small data file that is stored on Your computer for record-keeping purposes. Compass may also link the information that we store in cookies to the personally identifiable information You submit for various purposes such as understanding how You use content and which of its features are most used by You. Compass may use Adobe Flash cookies (and/or similar applications) to remember settings, preferences and usage similar to browser cookies but these are managed through a different interface than the one provided by Your web browser. Compass may employ Adobe Flash cookies to provide special content such as video clips or animation or to provide You with customized

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content or remember the last page You visited, keep track of preferences You specify while You are using the Software.

9. **External Links:** Although Compass makes reasonable efforts to ensure the quality, reliability, and age-appropriate nature of activities, any associated Internet URLs (addresses or “links”) and related content are not under the day-to-day control of Compass and are not endorsed by Compass. Accordingly, Compass expressly disclaims responsibility such third party sites and material, including, without limitation, any claims for any direct, indirect, or consequential damages or other issues arising in connection with the display or usage of such links and content including material some may find objectionable. Because such links are not under the control of Compass, Compass also cannot, and does not, guarantee that any given link will be accessible to or meet the specific needs of, You or any given user. None of the Compass applications limits or restricts Your ability to view other, non-affiliated websites and associated content. Compass does not provide, nor do the Compass applications function as, a content filter.

10. **Support Services:** If the Commercial Terms indicate that support services are included, Compass will provide you with such support services Monday through Friday 7:00 a.m. to 7:00 p.m. CST. You shall be entitled to utilize Compass' toll-free number during the hours of availability set forth herein. Service coverage does not include Compass' locally observed holidays or weather related closures. Support services are available via telephone, email and live online support. Toll Free: 800.678.1412, Email: support@Compasslearning.com, Web: <http://support.compasslearning.com> (“Compass Portal”). All service tickets shall be opened through the Compass Support Center page to document and track the service ticket through Compass's internal support tracking system. A support service ticket is defined as a unique question or problem as recorded in a single service ticket (“Incident”) in Compass' support tracking system.

Compass is only obligated to support a prior version of the Software for eighteen (18) months from new release. The support services provided by Compass shall become effective on the date of the Commercial Terms and shall remain in effect for the period specified in the Commercial Terms, or if not therein specified for one (1) year and shall be automatically renewed for successive annual terms unless You provide Compass or Compass provides You no less than thirty (30) days prior written notice before the expiration of then current term. All renewal fees shall be due and payable upon receipt of an invoice from Compass. For all renewal terms, the fee for such support shall be Compass' published list prices then in effect. Renewals not secured prior to expiration of term may be subject to reinstatement fee.

Each update, upgrade, error correction and other item (“Software Improvement”) related to any specific Software provided to You by Compass shall be deemed to become and constitute a part of that same Software along with any related material licensed by Compass. Upgrades, enhancements or new releases to the Software, which are separately priced by Compass, will be made available to You under Compass's then-current

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licensing terms and at the then current applicable fees. Use of all Software Improvements is strictly limited to the rights granted to You related restrictions and provisions of this Agreement. In addition, all Software Improvements and other information, including oral or written identification of, or information regarding, any problems or defects in the Software, are confidential and proprietary to Compass.

You shall be responsible for the dissemination, to Your software administrators and Your end users, of all materials provided by Compass. You will have all information and materials relating to the Software available when contacting Compass regarding Software problems. You will also provide Compass with supporting documentation and written descriptions of a given problem when requested by Compass. You will perform such tests of the Software as Compass shall request in connection with the evaluation of the software support request. When considered necessary and requested by Compass, You will provide Compass with the ability to dial into Your applicable computer system on which the Software is being run.

11. **Professional Development:** If the Commercial Terms indicate that professional development services are included (“Professional Development”), such Professional Development services shall be available for use by You for a one (1) year period from the date of purchase unless otherwise stated in Commercial Terms. Any Professional Development services purchased but not scheduled and delivered within one (1) year shall be forfeited without refund.

As a condition to receiving Professional Development services from Compass: (a) You shall be responsible for the dissemination, to Your software administrators and Your end users, of all materials provided by Compass; (b) You shall be required to schedule in advance the Professional Development services purchased so that the services are scheduled and delivered prior to one year from the date of purchase; (c) You shall be required to provide a minimum seventy two (72) hour rescheduling or cancellation notice for Professional Development services. If the seventy two (72) hour notice is not provided by You, the services shall be deducted and forfeited from the available services purchased.

Compass shall have the right to suspend Professional Development services in the event You fail to make any required payment. Professional Development services may be terminated by Compass, if Professional Development services are not scheduled and delivered within one (1) year from the date of purchase or if the seventy two (72) hour cancellation notice is not provided by You.

12. **Upload Activity:** The Software may include a feature that will enable you (if you are logged-in as a teacher or instructor) to upload content. You agree that the material you upload will not contain third party copyrighted material, or material that is subject to other third party proprietary rights, unless you have permission from the rightful owner of the material or you are otherwise legally entitled to post the material (e.g. fair use) and to grant Compass all of the license rights granted herein (“Upload Activity”). Your use

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of the Upload Activity is conditioned on your consent to this Section. You agree that you are solely responsible for any content you upload, including without limitation, its accuracy, adequacy and timeliness. Prior to uploading such content you agree to scan such content for viruses and malicious code to ensure such uploaded content does not include viruses or malicious code, and you agree to confirm that the content does not include any libelous, obscene, pornographic, illegal or inappropriate content. You understand that Compass is not reviewing or editing uploaded content. To the fullest extent permitted under law, You agree, on behalf of yourself, and your employer, in all capacities, including individually, agree to defend, indemnify and hold Compass, its officers, directors, employees and agents harmless from any and all losses, claims, detriment, damages, charges, costs and expenses. By uploading content, you agree to grant and you hereby grant an irrevocable, nonexclusive, paid-up, transferable license to use the content uploaded. IF COMPASS SHALL BE LIABLE TO YOU OR YOUR EMPLOYER FOR ANY MATTER RELATED TO OR ARISING FROM UPLOAD ACTIVITY, INCLUDING OTHER LIABILITIES, BASED UPON AN ACTION OR A CLAIM IN CONTRACT, WARRANTY, EQUITY, TORT, NEGLIGENCE, INTENDED CONDUCT, OR OTHERWISE (INCLUDING ANY ACTION OR CLAIM ARISING FROM THE ACTS OR OMISSIONS, NEGLIGENT OR OTHERWISE OF COMPASS), THE AGGREGATE AMOUNT OF DAMAGES RECOVERABLE AGAINST COMPASS WITH RESPECT TO ANY UPLOAD ACTIVITY WILL NOT EXCEED ONE HUNDRED DOLLARS (\$100.00).

Compass respects and expects its users to respect the rights of copyright holders. On notice, Compass will act appropriately to remove content that infringes the copyright rights of others. If it is believed that any content uploaded infringes upon existing copyrights, owners or any agent may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing us at CompassLearning, Inc. 203 Colorado Street, Austin, Texas 78701, ATTN: Legal Dept., with the following information in writing (see 17 U.S.C. 512(c)(3) for further detail): (a) a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (b) identification of the copyrighted work claimed to have been infringed; (c) identification of the material that is claimed to be infringing or to be the subject of infringing activity sufficient to permit Compass to locate the material; (d) information reasonably sufficient to permit Compass to contact you, such as an address, telephone number, and, if available, an electronic mail; (e) a statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (f) a statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

13. **Fees and Payment:** You shall pay or cause to be paid the fees specified in the Commercial Terms in accordance with the payment terms specified therein. Fees are not refundable. The fees and other amounts required to be paid are exclusive of taxes. You shall remit to Compass all taxes which Compass is required to collect or remit to

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applicable tax authorities. Such provision does not include Compass's income or franchise taxes. If You claim tax exempt status, You shall be required to timely furnish Compass with a valid tax exemption certificate. All amounts are payable in U.S. dollars.

14. **Term; Termination:** This Agreement and Your rights to use this Software automatically terminates if You fail to comply with any provisions of this Agreement, including, without limitation, failure to pay fees specified in the Commercial Terms. Upon termination of this Agreement, You will immediately cease using the Software and will deliver to Compass the Software in Your possession, or if Compass agrees, destroy the Software in Your possession.
15. **Governing Law:** This Agreement will be governed and interpreted by the laws of the State of Texas, USA. Exclusive jurisdiction and venue for all disputes will be in the state and federal courts residing in Austin, Texas. You expressly consent to the exercise of jurisdiction over You in the above venue of any court of competent jurisdiction and waive any right You may have to have the action tried or determined in a different venue. You consent to an injunction or other equitable relief, without bond, if sought by Compass due to Your breach of any of the terms of this Agreement. If Compass employs attorneys to enforce any rights arising out of or related to this Agreement and prevails in such action, Compass shall be entitled to recover its reasonable attorney's fees and costs from You.
16. **General Conditions:** If any provision of this Agreement is found void, invalid or unenforceable, it will not affect the validity of the balance of this Agreement, which shall remain valid and enforceable according to its terms. The Agreement sets forth the entire understanding and agreement between You and Compass and shall be amended only in writing signed by both parties; provided that Compass may amend this End User License Agreement at any time by providing notice on its Web site of such amendment. Any use of the Software and/or continued purchase of software maintenance after such notice has been provided with respect to any renewal period shall be deemed to be acceptance of the revised End User License Agreement. No waiver of any right under this Agreement shall be effective unless in writing signed by a duly authorized representative of Compass. Compass shall not be liable for any delay, nonperformance or related damages if such delay or nonperformance is due to causes beyond its reasonable control, including, but not limited to acts of God, electrical power failure, loss of communications, fire, explosion, war, action of any governmental authority or the delay of You or third parties.
17. **Acceptance of Terms and Conditions of this Agreement:** Compass has agreed to extend to You the rights set forth herein in reliance on Your agreement to the terms of this Agreement. By Your use of the Software, You agree to be bound by the terms and conditions set forth herein without the need for any signature to this Agreement by You or Compass.

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**Education Achievement Authority
of Michigan**
Equity. Choice. Reinvention.

**RESOLUTION 2012-52
APPROVAL OF MASTER SERVICES AGREEMENT WITH GLOBALSCHOLAR, INC.**

The Executive Committee of the Education Achievement Authority resolves:

1. That the attached Master Services Agreement with GlobalScholar, Inc., to provide the Authority a student information management system, and programs for student assessment and analysis, are approved by the Executive Committee of the Authority as the governing body of the Authority;
2. That the Chancellor of the Authority is authorized to execute the attached Master Services Agreement with GlobalScholar, Inc. on behalf of the Authority;
3. That the Secretary of the Executive Committee of the Authority shall enter the terms of the attached Master Services Agreement with GlobalScholar, Inc. in the minutes of the proceedings of the Executive Committee of the Authority.

Certification:

I certify that this resolution was duly adopted by the Executive Committee of the Education Achievement Authority at a properly-noticed open meeting held with a quorum present on the ____ day of _____.

By: _____
President

By: _____
Secretary



Legal Counsel
Approved as to Form



EDUCATION ACHIEVEMENT AUTHORITY of Michigan
VENDOR CONTRACT JUSTIFICATION FORM

REQUESTER INFORMATION

Date: 8/3/12 Department: Curriculum Requisition No.: _____

Requester Contact Information: Dr. Mary Esselman (313) 456-2957
Name Telephone Number

CONTRACT INFORMATION

Vendor Name: GlobalScholar, Inc.

Contract Price: \$6.03 million

Funding Source: General Funds

Contract Term: 5 academic years

Equipment/Services to be Provided: A student information management system, a data analytics program, and an assessments program.

Justification for Contract: To provide a single, centralized database for all student records which complies with state and federal requirements, as well as to provide EAA teachers with assessment and analytical programs to monitor and enhance student performance.

LEVEL OF IMPORTANCE

Essential

Important

Desirable

REQUIRED APPROVALS

Principal/Department Head Date

Chancellor Date

GlobalScholar, Inc. ("Contractor" or "GlobalScholar"), as part of its response to Education Achievement Authority of Michigan (the "EAA of Michigan") request for proposal for a Student Information and Management System ("RFP"), submitted various exceptions and/or additions to the Terms contained in the RFP. GlobalScholar also attached its standard licensing agreement, which contains suitable provisions for the services and products we are proposing. Most customers prefer signing GlobalScholar's standard licensing agreement as the agreement has been customized for the specific types of services and products that our clients are licensing/purchasing. However, if EAA of Michigan would prefer to negotiate a final agreement off its Master Services Agreement (rather than GlobalScholar's standard licensing agreement), we are able to do so, and GlobalScholar understands that the terms of the final agreement will be the subject of further negotiations between EAA of Michigan and GlobalScholar.

MASTER SERVICES AGREEMENT

This Master Services Agreement ("**Agreement**") is entered into this TBD day of August, [2011] ("**Effective Date**") between the Education Achievement Authority, a Michigan public body corporate ("**EAA**") and GlobalScholar, Inc. ("**Vendor**").

WHEREAS, EAA desires to retain Vendor to provide certain services as described herein upon the terms and conditions set forth herein and Vendor is willing to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I SERVICES TO BE PROVIDED

Section 1.1 Services. Each individual service to be provided by Vendor to EAA under this Agreement will be defined by a Service Order in the form of the template attached as Exhibit A. Each Service Order shall be signed by both parties and will describe the services to be performed ("**Services**"), the schedule for the performance of the Services (the "**Period of Performance**"), any identifiable work product to be delivered by Vendor ("**Deliverables**"), the fixed price or hourly rate for the Services ("**Fees**"), and any other terms that apply to that specific Service Order ("**Special Terms**"). The parties anticipate the possibility of executing multiple Service Orders outlining separate engagements for services. Each Service Order, together with the terms of this Agreement, constitutes a separate contract that will be effective upon execution of the Service Order by the parties. Each Service Order shall be governed by the terms of this Agreement. Except for those Special Terms in the Service Order that expressly provide that they take precedence over this Agreement, in the event of a conflict between this Agreement and the terms of a Service Order, this Agreement shall govern.

ARTICLE II COMPENSATION

Section 2.1 Fees. All Fees payable to Vendor during the term of this Agreement shall be reflected in each Service Order and shall remain fixed for the duration of the Service Order. Except for the Fees set forth in the applicable Service Order, there are no other fees or costs to be paid by EAA to Vendor. Notwithstanding the foregoing, Vendor acknowledges and agrees that the total amount payable to Vendor hereunder is subject to EAA's annual budgeted amount for such Services. Furthermore, amounts to be paid to Vendor shall not exceed the maximum dollar amount(s) specified in each Service Order, unless Vendor obtains the prior written approval of EAA and the parties execute a modified Service Order.

Section 2.2 Invoices. Vendor shall submit to EAA monthly invoices of Services performed in the previous month. Invoices shall be submitted to: 3022 W. Grand Blvd., Suite 14-652, Detroit, Michigan, 48202, Attention: Accounts Payable. EAA shall pay invoices for Services satisfactorily performed within 45 days after receipt of an invoice from Vendor. In the event that EAA reasonably disputes any amount that appears on an invoice received from Vendor, the parties shall work together in good faith to resolve the dispute. EAA shall not be required to pay the disputed portion until the dispute is resolved; provided, however, that (i) EAA continues to pay any undisputed amounts consistent with this Agreement, and (ii) Vendor shall continue to provide all of the Services and otherwise perform its obligations under the Agreement. Nonpayment by EAA of disputed amounts shall not constitute a breach of EAA's obligations regarding payment to Vendor or otherwise be considered a basis for termination of this Agreement.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF EAA

EAA represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying on such representations and warranties in entering into this Agreement and completing the transactions contemplated hereby:

Section 3.1 Organization and Good Standing. EAA is duly organized, validly existing and in good standing under the laws of the State of Michigan, has all requisite power and authority to own, operate and lease its properties and is duly authorized to do business in the State of Michigan.

Section 3.2 Power and Authorization. EAA has all requisite power to enter into this Agreement and to carry out and perform its obligations hereunder. All action required on the part of EAA and its officers, directors and shareholders for the authorization, execution and delivery of this Agreement and the performance by EAA of its obligations hereunder have been taken. This Agreement, when executed and delivered, shall constitute the legal and binding obligation of EAA in accordance with its terms, subject to (a) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief and other equitable remedies and (b) bankruptcy, insolvency, reorganization, moratorium or other similar laws not or hereafter in effect generally relating to or affecting creditors' rights.

Section 3.3 No Conflict or Breach. The execution, delivery and performance by EAA of its obligations under this Agreement will not result in any violation of, be in conflict with or constitute a default under, in any material respect, any material instrument, mortgage, deed of

trust, loan, contract, commitment, judgment, decree, order or obligation binding upon EAA or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of its properties or assets.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE VENDOR

The Vendor represents and warrants to EAA as follows and acknowledges that EAA is relying on such representations and warranties in entering into this Agreement and completing the transactions contemplated hereby:

Section 4.1 Organization and Good Standing. Vendor is duly organized, validly existing and in good standing under the laws of the State of Michigan, has all requisite power and authority to own, operate and lease its properties and is duly authorized to do business in the State of Michigan.

Section 4.2 Power and Authority. The Vendor has all requisite power to enter into this Agreement and to carry out and perform its obligations hereunder. All action required on the part of the Vendor and its officers, and agents for the authorization, execution and delivery of this Agreement and the performance by the Vendor of its obligations hereunder have been taken. This Agreement when executed and delivered, shall constitute the legal and binding obligations of the Vendor in accordance with its terms, subject to (a) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief and other equitable remedies and (b) bankruptcy, insolvency, reorganization, moratorium or other similar laws not or hereafter in effect generally relating to or affecting creditors' rights.

Section 4.3 No Conflict or Breach. The execution, delivery and performance by the Vendor of its obligations under this Agreement will not result in any violation of, be in conflict with or constitute a default under, in any material respect, any material instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation binding upon the Vendor or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of its properties or assets.

Section 4.4 No Debarment, Pending Governmental Action or Record of Violations. Vendor has not been debarred by either the Federal, State or any local unit of government from providing services, nor is it currently the subject of any debarment or similar proceedings. Vendor has no record of violation of any Federal, State or local government's procurement, contracting or ethics rules.

Section 4.5 Conflicts; No Undue or Improper Influence or Inducement. Vendor represents and warrants that it has disclosed in writing any existing conflicts of interest involving EAA, and that it will disclose in writing to EAA any conflicts that arise during the term of this Agreement. Vendor represents and warrants that it has not and will not offer to EAA or any of EAA's employees any unlawful inducement, prohibited benefit, or improper incentive to enter into this or any other agreement with EAA.

Section 4.6 Performance of Services; Compliance with Law. The Services will be performed in a diligent manner in accordance with industry practices, by individuals of suitable

training and skill. Vendor's actions and performance of the Services throughout the term of this Agreement shall be in full compliance with all applicable federal, state and local laws, rules, regulations and standards, including all laws applicable to EAA's operations or to which EAA is otherwise bound. Vendor has and will maintain throughout the term of this Agreement, all licenses, permits, authorizations and approvals necessary for the lawful conduct of its business. No representation or warranty of Vendor contained in this Agreement contains any untrue statement of material fact or omits to state a material fact necessary to make the statements and facts contained herein not misleading.

ARTICLE V TERM AND TERMINATION

Section 5.1 Term. This Agreement commences on the Effective Date and shall continue in effect so long as Services are being provided pursuant to a Service Order, or until terminated as provided herein.

Section 5.2 Termination.

- (a) EAA may terminate this Agreement or any Service Order hereunder without cause by providing at least thirty days written notice of such termination to Vendor.
- (b) Either party may terminate this Agreement for cause upon breach by the other party, which breach remains uncured thirty days after written notice describing such breach is given to the breaching party.
- (c) This Agreement may be terminated immediately by a party upon (i) the commission of an illegal act, unethical practice, or violation of public policy, including theft or embezzlement, by the other party; (ii) conduct by the other party that may adversely affect a party, as determined by such party in its sole discretion, or (iii) the filing of bankruptcy by either party. Further, EAA may terminate this Agreement immediately upon the substantial failure of Vendor to perform the services that it is obligated to perform hereunder in a timely manner or breach by Vendor of the provisions of Article VI.
- (d) Upon the expiration or termination of this Agreement or a Service Order for any reason, Vendor will cooperate with EAA in the orderly completion or transfer of Services and return of all EAA data and information, including any work in progress. Vendor will recover, as its sole remedy, payment for Services satisfactorily completed prior to such expiration or termination and not previously paid for by EAA. Vendor waives and forfeits all other claims for payment including, without limitation, anticipated profits or revenue or other economic loss arising out of or resulting from such termination or expiration.

ARTICLE VI CONFIDENTIAL INFORMATION

Section 6.1 Standard of Care. Vendor acknowledges that it may receive or have access to EAA's "Confidential Information", as that term is defined below. Vendor will protect EAA's Confidential Information with the same degree of care as Vendor uses to avoid unauthorized use, disclosure, publication or dissemination of its own confidential information of a similar nature, but in no event, less than a reasonable degree of care. Vendor shall not disclose or otherwise make available EAA's Confidential Information to any third party without the prior written consent of EAA; provided, however, that Vendor may disclose the Confidential Information to its officers, employees, and contractors who need access to the Confidential Information to perform their obligations to Vendor or EAA and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Article VI. Further, Vendor shall comply with all confidentiality-related guidelines, standards and law applicable to EAA. Vendor agrees to immediately notify EAA in the event Vendor becomes aware of any loss or unauthorized disclosure of EAA's Confidential Information. The provisions of this Article VI shall survive the termination or expiration of this Agreement.

Section 6.2 Confidential Information. "Confidential Information" means any information related to the business, personnel and operations of EAA obtained by Vendor, and may include, but is not limited to, business affairs, data, manuals, financial and accounting data, data and information concerning students, contracts, intellectual property, proprietary information and other operational information. Confidential Information shall not include anything that Vendor can document: (i) was generally available to the public at the time it was received by Vendor, (ii) was known to Vendor, without restriction, at the time of disclosure, or (iii) was independently developed by Vendor without any use of the Confidential Information.

Section 6.3 Return of Confidential Information. Upon expiration or termination of this Agreement, Vendor shall promptly return to EAA all Confidential Information of EAA and all copies, or at EAA's option, Vendor shall destroy the Confidential Information.

ARTICLE VII AUDITS

Section 7.1 General. Upon reasonable notice from EAA, Vendor shall provide EAA and its agents, regulators, accountants and inspectors access to, and any assistance and information that they may reasonably require with respect to the Services to, among other things, verify the security of EAA Confidential Information and examine Vendor's performance of the Services to enable EAA to confirm Vendor's compliance with this Agreement and applicable law.

Section 7.2 Cooperation and Record Retention. Vendor agrees to maintain accurate books and records in connection with Vendor's performance of the Services. Unless returned to EAA, upon its written request, all such books and records (including, without limitation, all papers, correspondence, data, information, reports, records, receipts, and other sources of information relating to the Services and Fees paid to Vendor) will be held and preserved for the

duration of this Agreement and for a period of six years after the expiration or termination of this Agreement. Vendor shall make such books and records available to EAA at EAA's request. Further, Vendor shall, and shall cause its agents, employees and contractors to provide EAA with all assistance required to enable EAA to comply with applicable law and standards pertaining to the disclosure and confidentiality of such books and records.

ARTICLE VIII INDEMNIFICATION, DAMAGES, INSURANCE AND WARRANTIES

Section 8.1 Indemnification. Vendor shall indemnify and hold harmless EAA and EAA's employees, agents, directors and officers against all liability arising out of, or resulting from any third party claim, suit, action or proceeding arising out of or resulting from (i) the failure of Vendor or any of its agents, employees or contractors, to comply with the terms of this Agreement or any applicable law; or (ii) any injury, loss, claim or damages arising from the actions or omissions of Vendor or an agent, employee, director, officer or contractor of Vendor.

Section 8.2 Limitation of Liability; No Special Damages. Notwithstanding any other provision of this Agreement, EAA shall not be liable to the Vendor for any damages for loss of profits, loss of revenues, loss of goodwill, loss of anticipated savings, loss of data or cost of purchasing replacement services, or any indirect, incidental, special, consequential, exemplary or punitive damages arising out of the performance or failure to perform under this Agreement or any Service Order. Nothing in this Agreement shall be construed as a waiver of governmental immunity, where applicable. No such limitation upon Vendor's liability for damages shall exist unless expressly set forth in the Special Terms of the Service Order.

Section 8.3 Insurance.

- (a) At all times during the term of this Agreement, Vendor shall procure and maintain, at its sole cost and expense, the following types and amounts of insurance coverage issued by an insurance company reasonably acceptable to EAA:
 - (1) Commercial General liability, covering bodily and personal injury, property damage, and contractual liability insuring the activities of Vendor under this Agreement, in a minimum amount of One Million Dollars (\$1,000,000) per claim and Five Million Dollars (\$5,000,000) in the annual aggregate, adding EAA as an additional insured with respect to this Agreement.
 - (2) Commercial Automobile liability with limits of One Million Dollars (\$1,000,000) per claim and Five Million Dollars (\$5,000,000) in the annual aggregate, adding EAA as an additional insured with respect to this Agreement.
 - (3) Worker's compensation insurance in amounts required in accordance with applicable laws.

- (4) Errors and Omissions/Professional liability with limits no less than One Million Dollars (\$1,000,000) per claim and Three Million Dollars (\$3,000,000) in the annual aggregate.
- (b) Upon request by EAA, Vendor shall provide EAA with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Section 8.3. Such certificates of insurance shall not be materially amended or cancelled without thirty days prior written notice to EAA; provided that, prior to such cancellation, Vendor shall have new insurance policies in place that meet the requirements of this Section 8.3.

Section 8.4 Disclaimer of Warranties. EXCEPT AS (1) EXPRESSLY SET FORTH IN THIS AGREEMENT, AND, (2) WITH RESPECT TO VENDOR ONLY, AS SET FORTH IN THE SPECIAL TERMS OF A SERVICE ORDER, NEITHER EAA NOR VENDOR MAKES ANY OTHER REPRESENTATION OR WARRANTY REGARDING THE SERVICES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.

ARTICLE IX DISPUTES

Section 9.1 Informal Dispute Resolution. EAA and Vendor will attempt to settle any dispute through informal good faith negotiations. The dispute will be escalated to appropriate senior level management of the parties, if necessary. If such managers are unable to resolve the dispute within ten business days of referral (or any other mutually agreed upon timeframe), the parties will undertake non-binding mediation as described below in a good faith attempt to resolve such dispute.

Section 9.2 Mediation. There will be a single mediator. If the parties cannot agree upon an acceptable mediator within ten days of termination of the negotiations under Section 9.1, each party will select one mediator from a list of not less than five mediators provided by the other party. These two mediators will select a third mediator who will serve as the sole mediator. Subject to the availability of the mediator, the mediation will occur not more than thirty days after the request for mediation. The mediation process will continue until the dispute (or any part thereof) is resolved or until such time as the mediator makes a finding that there is no possibility of resolution short of referring the parties to final and binding arbitration. The mediation will be held in Detroit, Michigan, unless the mediator, on his or her own initiative, wishes to conduct any mediation proceeding by telephone, facsimile transmission or other means of communication. The cost of mediation, including the mediator's fees and expenses, will be shared equally by the parties. Each party will have the right to be represented by attorneys of

their own choosing to advise them before and during the mediation process and their attorneys may review any settlement agreement, or other agreement, which the parties have reached through mediation, prior to the execution of such agreement. The parties agree that the mediator is acting in a neutral capacity and is not serving as an attorney, advocate, representative or fiduciary for either or both of them. Each party will pay its own attorney's fees and costs. In connection with the mediation process, the mediator may meet in confidential "caucus" sessions separately with each party. The mediator will be obligated to treat as confidential and refrain from disclosing to the other party or its counsel any information conveyed to the mediator during the caucus sessions unless the party conveying such information authorized the mediator to disclose it to the other party.

Section 9.3 Binding Arbitration. Should any dispute (or part thereof) remain between the parties after completion of the mediation process described in Section 9.2, such dispute will be submitted to final and binding arbitration in Detroit, Michigan under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), except to the extent that the AAA Rules are contrary to the specific terms of this Section 9.3, provided, however, that at the election of EAA, the arbitration may be done privately and not under the auspices of the AAA, although the AAA rules shall still otherwise govern except as herein stated. There will be three arbitrators. Each party will select one arbitrator. The two arbitrators selected by the parties will select a third arbitrator. At least one of the arbitrators will have at least five years of relevant experience. Each party may be represented by an attorney selected by the party. The costs of the arbitration, including the arbitrators' fees and expenses, will be shared equally by the parties. Each party will pay its own attorney's fees and costs; provided that, if the arbitrators find either party has acted in bad faith, the arbitrators will have discretion to award attorneys' fees to the other party. No party may raise new claims against the other party in the arbitration not raised during mediation. The arbitrators will have the power to resolve all disputes between the parties. The arbitrators will apply the law of the state of Michigan. The arbitrators will only interpret and apply the terms and provisions of the Agreement and will not change any such terms or provisions or deprive either party of any right or remedy expressly or impliedly provided for in the Agreement. The arbitrators will not have the power to award damages other than those described in the Agreement. The determination of a majority of the arbitrators will be conclusive upon the parties and will be non-appealable. At least thirty days before the arbitration is scheduled to commence, the parties will exchange lists of witnesses and copies of all exhibits intended to be used in arbitration. The parties will be entitled to limited discovery. A stenographic record of the proceedings will be kept, unless waived by both parties, at the equal expense of the parties. The arbitration will be completed within 120 days of the selection of the third arbitrator. The arbitrators will render a written decision, which contains findings of fact and conclusions of law, within thirty days of the conclusion of the arbitration and will specify a time within which the award will be performed. Judgment upon the award, including specific enforcement of the decision, will be entered in any court of proper jurisdiction. The parties have knowingly chosen arbitration as an alternative to proceedings in court and they specifically waive their rights to proceed by any means before a court otherwise having jurisdiction of any dispute between them, except to the extent necessary for injunctive relief or other equitable relief.

ARTICLE X GENERAL PROVISIONS

Section 10.1 Independent Contractor. The Services of Vendor shall be rendered as an independent contractor. The relationship between EAA and the Vendor shall not be that of partners, agents, or joint venturers to one another, and nothing contained in this Agreement shall be deemed to constitute a partnership, agency or employment agreement between them for any purposes, including, without limitation, for federal income tax purposes. Vendor assumes full responsibility for the payment of wages, salaries, and other amount due to all persons engaged by Vendor in connection with the Services performed hereunder, and Vendor will be responsible for

Section 10.2 all taxes, including Social Security, unemployment and withholding taxes, with respect to such persons. No provision of this contract shall be for the benefit of any party other than the Vendor and the EAA.

Section 10.3 Tax Exempt Status. Vendor acknowledges that EAA is a tax-exempt entity. Vendor may not use any EAA facility for any unauthorized purpose and will not act in any way that might jeopardize EAA's tax-exempt status.

Section 10.4 Entire Agreement and Amendments. This Agreement (including the Service Orders and exhibits), together with the documents delivered pursuant hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, negotiations, representations, discussions and understandings between the parties. This Agreement may be amended only by a written instrument executed by each party.

Section 10.5 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Michigan without giving effect to other conflicts of laws or principles thereof.

Section 10.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

Section 10.7 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto. No party to this Agreement may assign its rights under this Agreement to any other person without obtaining the written permission of the other parties in advance.

Section 10.8 No Third Party Beneficiaries. Nothing expressed or referred to in this Agreement is intended or shall be construed to give any person other than the parties to this Agreement or their respective successors or permitted assigns any legal or equitable right, remedy or claim under or in respect of this Agreement it being the intention of the parties that this Agreement and the transactions contemplated hereby shall be for the sole and exclusive benefit of such parties or such successors and permitted assigns.

Section 10.9 Expenses. Each party shall bear its own expenses incurred in connection with this Agreement and with the performance of its obligations hereunder.

Section 10.10 Notices. All written notices, consents, approvals, requests and other communications (“Notices”) required or permitted under this Agreement shall be personally delivered with receipt obtained, or mailed by overnight mail or registered or certified first-class mail, return receipt requested, addressed as follows:

If to the Vendor, to:

[_____]

[_____]

[_____]

Attention: _____

If to the EAA, to:

Education Achievement Authority
3022 W. Grand Boulevard
Suite 14-652
Detroit, Michigan 48202
Attention: Chancellor’s Office

All Notices shall be deemed given on the day when hand delivered or, if mailed, on the day following the day of mailing. Either party to this Agreement may change its address for the receipt of Notices at any time by giving Notice to the other party as provided in this Section 10.9.

Section 10.11 Further Assurances. Each party promptly shall cause to be taken, executed, acknowledged or delivered all such further acts, conveyances, documents and assurances as any other party from time to time reasonably may request in order to carry out and effectuate the intent and purposes of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives with effect from the day and year first above written.

EDUCATION ACHIEVEMENT AUTHORITY

By: _____

John William Covington, Ed.D.

Title: _____

Chancellor

Date: _____

GlobalScholar

By: Al Teixeira

Title: Business Development Executive

Date: August 2, 2012

Exhibit A
Service Order
GLOBALSCHOLAR SERVICE

Services

Student Information Management System:

EAA of Michigan requires a supplier with the expertise to provide a “game changing” solution built on a single, centralized database that provides the core functions of student records, registration, scheduling, testing, grades and attendance, special education and individual learning plans. Additionally, the solution must include all data elements required for specific district, state and federal reporting requirements. EAA of Michigan seeks a partner to not only meet the specifications and business requirements specified in the RFP, but must also help enhance your success by delivering high-quality assistance and ongoing support, available during the District’s regular business hours.

GlobalScholar recognizes the challenges EAA of Michigan faces in implementing a new Student Information Management System. GlobalScholar’s proposed Student Performance Solution will provide EAA of Michigan data consistency, efficiencies in time and effort, expert service and support and a significant return on investment.

EAA of Michigan will benefit greatly from a strategic partnership with GlobalScholar, a company with proven technical expertise – an unparalleled partner suited to meet your student information management, gradebook and special education requirements. Our solution delivers a broad suite of performance-optimizing capabilities and industry best practices designed to meet EAA of Michigan's requirements.

Assessments

GlobalScholar proposes its Performance Series® assessment program along with item banks and professional development to meet the needs of Education Achievement Authority of Michigan (EAA). Performance Series is an Internet-delivered Standards-based Adaptive Measurement—a computer adaptive assessment modified to measure the different academic objectives of both the Common Core and Michigan Grade Level Content Expectations (GLCE). Used as a powerful universal screener it provides immediate diagnostic information and reporting to each teacher, including learning objectives a student has not completed, and the academic gains made by individual and groups of students.

Custom Data Analytics and Intelligence

Pinnacle Insight will provide education stakeholders access to dashboards, robust reporting, and early warning indicators that can help educators view and understand students’ progress, spot learning problems early for individual students and groups of students and predict performance while tracking year-over-year progress on benchmark assessments, among other features. This data dashboard will provide online access to K-12 educational information integrating district data from a variety of current and future data sources. Administrators, teachers and educational stakeholders to provide timely and easy to interpret data to increase student achievement and performance can use pinnacle Insight’s predefined and on-the-fly reports and data queries.

Period of Performance

Work will commence TBD, based upon contract and statement of work execution. GlobalScholar will meet to develop through Project Manager an implementation timeline, and key deliverables based on EAA of Michigan stated goals. It is anticipated that this work will be completed by TBD. It anticipated that this project will be completed based on TBD by EAA of Michigan and GlobalScholar.

Deliverables

GlobalScholar shall implement according to EAA plans, which is TBD.

Special Terms

Pricing is based on EAA of Michigan purchasing the product suite included in proposal. Student enrollment and School Count assumptions (notated in the proposal) were provided by EAA of Michigan and based on enrollment increasing 15,000 students and in years 2 through 5.

Professional Fee

The proposed professional fee for this project task is \$ TBD. The professional fee shall be billed and due in TBD.

All payments are to be made directly to Vendor within 30 days of delivery of invoice.

SIS Total		Year 1	Year 2	Year 3	Year 4	Year 5	Total
Licenses	SIS RFP	\$69,360	\$158,544	\$242,928	\$322,392	\$392,256	\$1,185,480
Implementation	SIS RFP	\$205,822	\$45,000	\$30,000	\$30,000	\$75,000	\$385,822
Training	SIS RFP	\$41,164	\$18,000	\$12,000	\$12,000	\$30,000	\$113,164
		\$316,346	\$221,544	\$284,928	\$364,392	\$497,256	\$1,684,466

Data Anal		Year 1	Year 2	Year 3	Year 4	Year 5	Total
Data Analytics		\$94,340	\$70,258	\$102,208	\$134,158	\$166,108	\$567,072
Data Analytics		\$253,000	\$0	\$0	\$0	\$0	\$253,000
Data Analytics		\$8,000	\$0	\$0	\$0	\$0	\$8,000
		\$355,340	\$70,258	\$102,208	\$134,158	\$166,108	\$828,072

Assessment		Year 1	Year 2	Year 3	Year 4	Year 5	Total
Assessment		\$120,000	\$260,400	\$382,800	\$486,000	\$562,500	\$1,811,700
Assessment		\$140,000	\$140,000	\$140,000	\$140,000	\$140,000	\$700,000
Assessment		\$3,850	\$3,850	\$3,850	\$3,850	\$3,850	\$19,250
		\$263,850	\$404,250	\$526,650	\$629,850	\$706,350	\$2,530,950

Assumption used to calculate each year-

Students	12,000	27,000	42,000	57,000	72,000
Schools	15	30	40	50	75